FEDERAL REGISTER

VOLUME 8 NUMBER 179

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Regulations

TITLE 7—AGRICULTURE

Chapter VIII—War Food Administration (Sugar Orders)

PART 802—SUGAR DETERMINATIONS

LOUISIANA SUGARCANE WAGE RATES 1943–44

Determination of fair and reasonable wage rates for persons employed in the harvesting of sugarcane in Louisiana during the period September 1, 1943, to June 30, 1944.

Pursuant to section 301 (b) of the Sugar Act of 1937, as amended, and Executive Order No. 9322, issued March 26, 1943, as amended by Executive Order No. 9334, issued April 19, 1943, the following determination is hereby issued:

§ 802.24m *Fair and reasonable wage rates for persons employed in the harvesting of sugarcane in Louisiana during the period September 1, 1943 to June 30, 1944.* The requirements of section 301 (b) of the Sugar Act of 1937, as amended, shall be deemed to have been met with respect to the harvesting of sugarcane in Louisiana during the period from September 1, 1943 to June 30, 1944, if all persons employed on the farm during that period in the harvesting of sugarcane shall have been paid in full for all such work and shall have been paid wages in cash therefor at rates not less than the following.

(a) *Time rates for adult males and adult females.*

	Per day of 9 hours	Per hour when working day is longer or shorter than 9 hours
		Cents
(1) Cutting, topping, stripping.		
(i) Adult males	$2.70	30.0
(ii) Adult females	2.20	25.0
(2) Loading	3.25	37.0
(3) Cutting and loading	2.90	33.0
(4) Tractor drivers and truck drivers	3.40	38.0
(5) Teamsters	3.20	36.0
(6) Hoist operators	2.90	33.0
(7) Any other harvesting operations not connected with mechanical loading or mechanical harvesting:		
(i) Adult males	2.30	26.0
(ii) Adult females	1.85	21.0
Operations connected with mechanical loading or mechanical harvesting:		
(8) Operators of mechanical loading or harvesting equipment	$3.65	*Cents* 41.0
(9) Grabmen, spotters, repairmen	3.25	37.0
(10) Pilers	2.90	33.0
(11) Scrappers	2.70	30.0
(12) Other operations connected with mechanical loading or mechanical harvesting	2.70	30.0

(b) *Time rates for harvesting operations performed by children.* (1) For children between the ages of 14 and 16 years, the rate per day of 8 hours (maximum hours per day for such children) shall be not less than three-fourths of the rates established under paragraph (a) for adult male workers for a 9-hour day. For a working day shorter than 8 hours, the rate shall be in proportion.

(c) *Piece rates for adult males, adult females, or children 14 to 16 years.*

Variety of sugarcane	Cutting, topping & stripping	Loading	Cutting and loading as combined operation
(1) *Green sugarcane*		*Per ton*	
C. O. 290; C. P. 29-103; C. P. 29-116; 31-201; 160; 163; 33-243	$1.17	$0.23	$1.45
All other varieties	1.25	.37	1.72
(2) *Burnt sugarcane*			
C. O. 290; C. P. 29-103; C. P. 29-116; 31-201; 160; 163; 33-243	.91	.23	1.19
All other varieties	1.09	.37	1.37

(3) The piece rate for a particular operation calculated on a basis other than prescribed under subparagraphs (1) or (2) of this paragraph (c) shall be such as to provide earnings per day, or per hour, of not less than the per day or per hour rates specified under paragraphs (a) or (b) above whichever is applicable.

(d) *General provisions.* (1) Nothing in this determination shall be construed

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FEDERAL REGISTER

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to mean that a producer may qualify for a payment under the Act who has not paid in full the amount agreed upon between the producer and laborer;

(2) The producer shall furnish to the laborer without charge the customary perquisites, such as a habitable house, medical attention, and other customary incidentals;

(3) The producer shall not, through any subterfuge or device whatsoever, reduce the wage rates to laborers below those determined herein.

(Sec. 301, 50 Stat. 909; 7 U.S.C. 1940 ed. 1131; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423)

Issued this 6th day of September 1943.

GROVER B. HILL,
Acting War Food Administrator.

[F. R. Doc. 43-14642; Filed, September 7, 1943; 11:12 a. m.]

Chapter XI—War Food Administration (Distribution Orders)

[FDO 79]

PART 1401—DAIRY PRODUCTS

CONSERVATION AND DISTRIBUTION OF FLUID MILK AND CREAM

The fulfillment of requirements for the defense of the United States will result in a shortage in the supply of milk, cream, and milk byproducts for defense, for private account, and for export; and the following order is deemed necessary and appropriate in the public interest and to promote the national defense:

§ 1401.29 *Fluid milk and cream*—(a) *Definitions.* When used in this order, unless otherwise distinctly expressed or manifestly incompatible with the intent thereof:

(1) The term "person" means any individual, partnership, corporation, association, or any other business entity.

(2) The term "handler" means any person engaged in the handling or processing of milk, milk byproduct, or cream for sale or delivery in a milk sales area, irrespective of whether such sale or delivery is to other handlers, and irrespective of whether such person is also a milk producer; except that stores, restaurants, hotels, or similar establishments, in their capacity as such shall not be considered handlers; and no person shall be considered a handler in a milk sales area with respect to those operations which are carried on in a plant from which no milk, milk byproduct, or cream is delivered in such sales area.

(3) The term "milk" means cow's milk or any product of cow's milk which contains less than 5 percent butterfat and which is sold as milk or reconstituted milk.

(4) The term "milk byproduct" means (i) skim milk, buttermilk, flavored milk drink, or beverage containing more than 85 percent of skim milk; and (ii) cottage, pot, or bakers' cheese.

(5) The term "cream" means (i) the class of food defined in the regulations (5 F.R. 2442; 21 CFR, 1940 Supp., 18.500 *et seq.*) promulgated by the Secretary of Agriculture on June 28, 1940, and includes light cream, coffee cream, table cream, whipping cream, heavy cream, and any other cream whether sweet or sour by whatever name known; and (ii) milk and cream mixtures containing 5 percent or more of butterfat.

(6) The term "Director" means the Director of Food Distribution, War Food Administration.

(7) The term "market agent" means the market agent provided for in (c) (1) hereof.

(8) The term "advisory committee" means the advisory committee provided for in paragraph (c) (3) of this section.

(9) The term "base period" means any period designated by the Director for a milk sales area for the purpose of establishing quotas.

(10) The term "quota period" means any period designated by the Director for a milk sales area during which quotas established pursuant to this order shall be applicable.

(11) The term "quota" means the quantity, as established by the Director from time to time, of each of milk, milk byproducts, and cream, which a handler may deliver within a milk sales area during a quota period, in relation to the quantity of deliveries made by handlers during the base period.

(12) The term "milk sales area" means any geographical area designated by the Director for the purposes of this order.

(b) *Quotas and general restrictions.* (1) The Director shall designate or establish, from time to time, milk sales areas, base periods, quotas, and quota periods. The Director shall, in establishing milk sales areas, take into consideration, among other things, the density of population of each such area and the territory served by handlers making deliveries in that area. In establishing quotas, the Director (i) may establish separate quotas for handlers who are also producers, (ii) may establish separate quotas applicable to deliveries to various classes of purchasers, (iii) shall exclude, in the computation of quotas, deliveries to the agencies, persons, or groups specified in or pursuant to the provisions of paragraph (d) (1) of this section, (iv) may attach specific apportionments of quotas to wholesale and other buyers of milk, cream, or milk byproducts, which the buyer within his discretion may transfer from the quota of the handler, holding such apportionment, to the quota of another, and (v)

may establish a quota for milk, one or more quotas for the several milk byproducts, and a quota for cream.

(2) No handler shall, during any quota period, deliver, within a milk sales area, a total quantity of milk, milk byproducts, or cream in excess of his respective quotas for such milk, milk byproducts, and cream during such period, except for deliveries exempt from such quotas.

(3) Each handler shall make an equitable distribution of milk, milk byproducts, and cream delivered by him, taking into consideration the schedules prepared in accordance with the provisions of paragraph (c) (2) (iii) of this section and the persons and types of outlets supplied by such handler during the base period, and shall not favor purchasers who buy other products from him and shall not discriminate against purchasers who do not buy other products from him.

(4) All quotas hereunder shall be calculated quantitatively as specified by the Director: (i) for milk, in terms of pounds of milk, butterfat, or both; (ii) for cream, in terms of pounds of butterfat, cream, or both; and (iii) for milk byproducts, in terms of pounds of product, skim milk equivalent, or both: *Provided,* That the skim milk equivalent shall be computed in accordance with conversion factors announced by the Director.

(c) *Administration.* (1) The Director shall designate a market agent for each milk sales area or for a combination of several such areas and shall fix the amount of his salary. Insofar as he performs functions for the United States, the market agent will act under his appointment as collaborator without compensation from the United States. The market agent shall be subject to removal by the Director at any time, and all his acts shall be subject to the continuing right of the Director to disapprove at any time. Upon such disapproval, his acts shall be deemed null and void except insofar as any other person has acted in reliance thereon or in compliance therewith prior to such disapproval.

(2) The market agent is authorized and directed to:

(i) Obtain and assemble reports from handlers; assemble data with respect to the production, shipments, sales and delivery of milk, milk byproducts, and cream in the area, and with respect to the handlers under his jurisdiction; and furnish to the Director such available information as may be requested;

(ii) Receive petitions for relief from hardship; compile all necessary facts and data concerning such petitions; and transmit such petitions to the Director together with his recommendations;

(iii) With the advice of the advisory committee, prepare schedules establishing for various purchasers or classes of purchasers priorities to the purchase of milk, milk byproducts, and cream from handlers and transmit such schedules for approval to the Director, and such approved schedules shall be made available to handlers as schedules to be followed by them in the disposition of milk, milk byproducts, and cream;

(iv) Upon the request and with the advice of the advisory committee, devise plans which will permit handlers to share equitably in available supplies of milk and administer such plans upon approval by the Director;

(v) Keep books and records which will clearly reflect all of his acts and transactions, such books and records to be subject at any time to examination by the Director;

(vi) Collect the assessments as provided in this order from handlers required to pay such assessments;

(vii) Deliver to the Director promptly after the designation a bond in an amount and with surety thereon satisfactory to the Director, conditioned upon the faithful performance of the market agent's duties under this order;

(viii) Employ and fix the compensation of such persons as may be necessary to enable him to perform his duties hereunder;

(ix) Obtain a bond with reasonable surety thereon covering each employee of his office who handles funds under this order;

(x) Investigate and report to the Director any violation of this order;

(xi) Submit to the Director for approval a budget of expenses hereunder of the market agent;

(xii) Pay out of the funds collected by him as market agent the cost of his bond and of the bonds of his employees, his own compensation and that of his employees, and all other expenses necessarily incurred by him in the performance of his duties hereunder;

(xiii) Audit or inspect the books, records and other writings, premises, or inventories of milk, milk byproducts, and cream of any handler operating within the milk sales area subject to the jurisdiction of the market agent; and

(xiv) Perform such other duties as the Director may from time to time specify.

(3) The Director may designate for each milk sales area, or for a group of such areas, three or more persons to act as members of an advisory committee, and an alternate member for each of the members. Any such alternate shall act only in the event that the member for whom he is alternate is unable to act. The market agent shall be an additional member ex officio and shall act as chairman of the advisory committee. Each member of the committee shall be subject to removal by the Director at any time. The advisory committee shall meet at the call of the chairman. The advisory committee shall counsel with the market agent and shall recommend to the Director such amendments to this order and such changes in the administration thereof as it deems advisable.

(4) Each handler shall pay the market agent, within 20 days after the close of each calendar month, after the date of appointment of the market agent, an assessment upon the milk, milk byproducts, and cream, or any such portion thereof as may be specified by the Director, delivered by such handler during each such calendar month. This assessment shall be fixed, and may be modified from time to time, by the Director to meet the expenses which the Director finds will be necessarily incurred by the operations of this order in connection with an order issued pursuant hereto by the Director: *Provided, however,* That the assessment shall not exceed $0.03 per hundredweight of milk, cream, and skim milk equivalent of milk byproducts.

(d) *Quota exemptions.* (1) Notwithstanding the restrictions of paragraph (b) of this section, and without charge to his quota thereunder, any handler may deliver milk, milk byproducts, or cream to or for the following agencies or persons:

(i) The armed forces (Army, Navy, Marine Corps, and Coast Guard); any person feeding, pursuant to a written contract with any agency of the United States, personnel of the Army, Navy, Marine Corps, Coast Guard of the United States messed under the command of a commissioned or non-commissioned officer, to the extent necessary to feed such personnel;

(ii) Food Distribution Administration;

(iii) War Shipping Administration;

(iv) Veterans' Administration; and

(v) Any other agency or group named by the Director.

(e) *Audits and inspections.* The Director shall be entitled to make such audit or inspection of the books, records and other writings, premises, or inventories of milk, milk byproducts, or cream of any handler, and to make such investigations as may be necessary or appropriate, in his discretion, to the enforcement or administration of the provisions of this order.

(f) *Records and reports.* The Director shall be entitled to obtain such information from, and require such reports and the keeping of such records by, any person, as may be necessary or appropriate, in his discretion, to the enforcement or administration of the provisions of this order, subject to the approval of the Bureau of the Budget, pursuant to the Federal Reports Act of 1942.

(g) *Petition for relief from hardship.* Any person affected by this order who considers that compliance herewith would work an exceptional and unreasonable hardship on him may apply in writing for relief to the Director, setting forth in such petition all pertinent facts and the nature of the relief sought. The petition shall be submitted to the market agent of the milk sales area for which relief is sought. The Director may thereupon take such action as he deems appropriate, which action shall be final.

(h) *Violations.* The War Food Administrator may suspend, revoke, or reduce the quota of any person who violates any provision of this order, may prohibit by order such person from receiving, or using milk, cream, or any other material subject to priority or allocation control by the War Food Administrator, and may recommend that any such person be prohibited from receiving, making any deliveries of, or using materials subject to the priority or allocation control of other governmental agencies. In addition, any person who wilfully violates any provision of this order is guilty of a crime and may be prosecuted under any and all applica-

ble laws. Further, civil action may be instituted to enforce any liability or duty created by, or to enjoin any violation of, any provision of this order.

(i) *Delegation of authority.* The administration of this order and the powers vested in the War Food Administrator, insofar as such powers relate to the administration of this order, are hereby delegated to the Director. The Director is authorized to redelegate to any employee of the United States Department of Agriculture any or all of the authority vested in him by this order.

(j) *Territorial scope.* The provisions of this order shall apply in the United States and the District of Columbia.

(k) *Communications.* All reports required to be filed hereunder and all communications concerning this order shall, unless instructions to the contrary are issued by the Director, be addressed to the Director of Food Distribution, War Food Administration, Washington 25, D. C., Ref. FD–79.

(l) *Effective date.* This order shall become effective at 12:01 a. m., e. w. t., September 10, 1943.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423)

Issued this 7th day of September 1943.

MARVIN JONES,
War Food Administrator.

[F. R. Doc. 43–14700; Filed, September 8, 1943; 11:27 a. m.]

[FDO 70–1, Amdt. 1]

PART 1470—FOOD STORAGE FACILITIES

DESIGNATION OF RESTRICTED COMMODITIES AND REQUIREMENT OF REPORTS

Correction

In the fifth line of § 1470.2 (c) (1) (i) of F. R. Doc. 43–14325 appearing on page 12039 of the issue for Thursday, September 2, 1943 the word "quality" should read "quantity".

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter II—War Food Administration (Packers and Stockyards)

PART 203—AUTHORIZATION FOR INSPECTION OF LIVESTOCK

NEBRASKA BRAND COMMITTEE

Pursuant to the application of the Nebraska Brand Committee, made pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 1940 ed. 181 *et seq.*), and of the provisions of a further amendment to the said Act described as Public Law 615, 77th Cong., Ch. 421, 2nd Sess., approved June 19, 1942, the following authorization is deemed necessary and *it is ordered* as follows:

§ 203.12 *Nebraska Brand Committee.* The Nebraska Brand Committee is hereby authorized, with respect to livestock originating in or shipped from the State of Nebraska, subject to the provisions of the Act, to charge and collect, at those stockyards posted under the Act at which the said Nebraska Brand Committee may register as a market agency to perform such inspection, reasonable and nondiscriminatory fees for the inspection of brands, marks and other identifying characteristics of livestock for the purpose of determining the ownership of such livestock. Such charges as are authorized to be made under this authority shall be collected by the market agency or person receiving and disbursing the funds received from the sale of livestock with respect to the inspection of which such charge is made, and shall be paid by it to the said Nebraska Brand Committee. Such inspection charges and collection of fees shall be subject to the provisions of the Packers and Stockyards Act, 1921, as amended, and such regulations as may be promulgated pursuant thereto.

This authorization supersedes and revokes the authorization issued May 13, 1938, and the amendment thereto of May 22, 1939, to the Nebraska Stockgrowers Association and the authorization issued June 30, 1941, to the Nebraska Brand Committee, which appear, respectively, in § 203.3, Chapter I, and § 203.3, Chapter II, of Title 9, and § 203.12, Chapter II, Title 9, Code of Federal Regulations.

(7 U.S.C. 1940 ed. 181 et seq.; Public Law 615, 77th Cong., Ch. 421, 2d Sess., approved June 19, 1942; E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423)

Done at Washington, D. C., this 7th day of September 1943.

THOMAS J. FLAVIN,
Assistant to the War Food Administrator.

[F. R. Doc. 43–14699; Filed, September 8, 1943; 11:27 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Regulations, Serial No. 285]

PART 285—RULES OF PRACTICE

APPEARANCES BY THIRD PERSONS AND FORMAL INTERVENTIONS

Correction

The last sentence of the final paragraph of F.R. Doc. 43–14487 appearing on page 12258 of the issue for Tuesday, September 7, 1943 should read: "Interventions herein provided are for administrative purposes, and no decision to grant leave to intervene shall be deemed to constitute a finding or determination that the intervening party has such a substantial interest in the order that is to be entered in that proceeding as will entitle it to demand court review of such order."

TITLE 29—LABOR

Chapter VIII—Commissioner of Internal Revenue

[T.D. 5294]

PART 1002—STABILIZATION OF SALARIES

MISCELLANEOUS AMENDMENTS

On October 27, 1942, the President approved regulations relating to wages and salaries prescribed by the Economic Stabilization Director (7 F.R. 8748) under the Act of October 2, 1942, entitled "An Act to amend the Emergency Price Control Act of 1942, to aid in preventing inflation, and for other purposes" (Public Law 729, 77th Congress) and under Executive Order No. 9250, dated October 3, 1942 (7 F.R. 7871). On August 27, 1943, the Economic Stabilization Director promulgated certain amendments to these regulations and to Executive Order No. 9250 in order to conform them to the amendments made in the above-mentioned Act of October 2, 1942 by the Public Debt Act of 1943, entitled "An Act to increase the debt limit of the United States, and for other purposes" (Public Law 34, 78th Congress). These regulations conferred upon the Commissioner of Internal Revenue authority to administer the provisions thereof relating to the stabilization of certain salaries. In the exercise of the authority so conferred upon the Commissioner of Internal Revenue, the following amendments to the regulations relating to salaries, issued by him and approved by the Acting Secretary of the Treasury on December 2, 1942 (T.D. 5186, 7 F.R. 10050), are hereby promulgated, in order to conform them to the provisions of the above-mentioned Act of October 2, 1942, as so amended:

PARAGRAPH 1. The table of contents is amended by deleting Subpart F and the sections listed thereunder.

PAR. 2. Section 1002.1 (a) is amended to read as follows:

(a) The term "Act" means the Act of October 2, 1942, entitled "An Act to amend the Emergency Price Control Act of 1942, to aid in preventing inflation, and for other purposes" (Public Law 729, 77th Congress), as amended by the Public Debt Act of 1943, entitled "An Act to increase the debt limit of the United States, and for other purposes" (Public Law 34, 78th Congress).

PAR. 3. Section 1002.15 is amended by inserting at the end of the last paragraph thereof the following sentence:

The words "for any particular work" in the first sentence of this section refer to the particular work of the particular employee and not merely to a particular type of work.

PAR. 4. Subpart F and §§ 1002.18 to 1002.27, inclusive, are deleted.

PAR. 5. Section 1002.28 (d) is deleted.

PAR. 6. The last sentence of § 1002.30 is deleted.

PAR. 7. The first sentence of § 1002.31 is amended to read as follows:

§ 1002.31 *Exempt employers.* The provisions of the regulations in this part

shall not apply in the case of an employer who employs eight or less individuals in a single business.

PAR. 8. The amendments made under this Treasury decision shall be effective as of October 2, 1942.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved: September 4, 1943.

HERBERT E. GASTON,
Acting Secretary of the Treasury.

[F. R. Doc. 43-14623; Filed, September 6, 1943; 3:56 p.m.]

[T.D. 5295]

PART 1002—STABILIZATION OF SALARIES

REVISION OF REGULATIONS

On August 28, 1943, the Economic Stabilization Director promulgated amended regulations relating to wages and salaries (8 F.R. 11960) by virtue of the authority vested in the President by the Act of October 2, 1942, entitled "An Act to amend the Emergency Price Control Act of 1942, to aid in preventing inflation, and for other purposes" (Pub. No. 729, 77th Cong., 2d sess.), as amended by the Public Debt Act of 1943, entitled "An Act to increase the debt limit of the United States, and for other purposes" (Pub. No. 34, 78th Cong., 1st sess.), and vested in turn by the President in the Economic Stabilization Director under Executive Order 9328, dated April 8, 1943 (8 F.R. 4681). These regulations conferred on the Commissioner of Internal Revenue authority to administer the provisions thereof relating to the stabilization and limitation of certain salaries. In the exercise of the authority so conferred on the Commissioner of Internal Revenue, the following amended regulations relating to salaries are hereby promulgated to supersede, in the manner and to the extent hereinafter indicated, the regulations relating to salaries issued by him and approved by the Acting Secretary of the Treasury on December 2, 1942 (T.D. 5186, 7 F.R. 10050), as amended on September 4, 1943 (T.D. 5294).

SUBPART A—DEFINITIONS

AUTHORITY: §§ 1002.1 to 1002.17, inclusive, and §§ 1002.28 to 1002.35, inclusive, issued under 56 Stat. 765, 50 U.S.C. Supp. II 961 et seq., as amended by Pub. Law No. 34, 78th Congress; E.O. 9328, 8 F.R. 4681, Regs. of Economic Stabilization Director, dated August 28, 1943, 8 F.R. 11960.

SUBPART A—DEFINITIONS

§ 1002.1 *General terms.* When used in the regulations in this part, unless otherwise distinctly expressed or manifestly incompatible with the intent thereof:

(a) The term "Act" means the Act of October 2, 1942 (Public No. 729, 77th Congress), entitled "An Act to amend the Emergency Price Control Act of 1942, to aid in preventing inflation, and for other purposes", as amended by the Public Debt Act of 1943 (Public No. 34, 78th Congress), entitled "An Act to increase the debt limit of the United States and for other purposes."

(b) The term "Board" means the National War Labor Board created by Executive Order No. 9017, dated January 12, 1942 (7 F.R. 237).

(c) The term "Commissioner" means the Commissioner of Internal Revenue.

(d) The term "Code" means the Internal Revenue Code, as amended and supplemented.

(e) The term "person" has the same meaning as when used in the Code.

(f) The term "general regulations" means amended regulations (relating to wages and salaries) promulgated by the Economic Stabilization Director on August 28, 1943 (8 F.R. 11960), and as amended or supplemented by subsequent regulations relating to wages and salaries promulgated by the Economic Stabilization Director.

(g) The term "in contravention of the Act" means in contravention of the Act of October 2, 1942 (referred to in paragraph (a) above, Executive Order No. 9250 of October 3, 1942 (7 F.R. 7871), Executive Order 9299 of February 4, 1943 (8 F.R. 1669), Executive Order 9328 of April 8, 1943 (8 F.R. 4681), the General Regulations, these regulations and other orders, rulings, and regulations promulgated under such Act.

§ 1002.2 *Employee and employer.* An employee, for the purposes of the regulations in this part, is an individual who performs services for compensation where the relationship between him and the person for whom he performs the services is the legal relationship of employee and employer. An employer is any person for whom an individual performs any services, of whatever nature, as the employee of such person. The term "employer" is not limited to private persons engaged in trade or business, but includes organizations which, under section 101 of the Code, are exempt from income taxation, and also government departments and agencies. The existence of the legal relationship of employer and employee is to be ascertained in the light of the general purposes of the Act and the General Regulations.

Generally, the legal relationship of employer and employee exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work done, but also as to the details and means by which that result is accomplished. An employee is generally subject to the will and control of the employer not only as to what shall be done but how it shall be done. In this connection it is unnecessary that the employer actually direct or control the precise manner in which the services are performed; it is sufficient that he has the right to do so. The right to discharge is also an important factor indicating that the person possessing that right is an employer.

Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools and the furnishing of a place to work to the individual who performs the services. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, he is an independent contractor. An individual performing services as an independent contractor is not an employee as to such services. Physicians, lawyers, architects, contractors and others who follow an independent trade, business or profession in which they offer their services to the public are generally independent contractors and not employees. Whether the relationship of employer-employee exists will be determined upon an examination of the particular facts of each case.

If the relationship of employer and employee exists the designation or description of the relationship by the parties as anything other than that of employer and employee is immaterial. If such relationship exists, it is of no consequence that the employee is designated as a partner, co-adventurer, agent or independent contractor. The measurement, method, or designation of compensation is immaterial if the relationship of employer and employee thus in fact exists.

An officer of a corporation is an employee of the corporation but a director as such is not. A director may be an employee of the corporation, however, if he performs services for the corporation other than those required by attendance at and participation in meetings of the board of directors.

§ 1002.3 *Executive employees.* An individual "employed in a bona fide executive capacity" means any employee:

(a) Whose primary duty consists of the management of the establishment in

which he is employed or of a customarily recognized department or subdivision thereof, and

(b) Who customarily and regularly directs the work of other employees, and

(c) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any change of status of other employees will be given particular weight, and

(d) Who customarily and regularly exercises discretionary powers, and

(e) Who is compensated for his services on a salary basis at not less than $30 per week (exclusive of board, lodging, or other facilities), and

(f) Whose hours of work of the same nature as that performed by employees not employed in an executive, administrative or professional capacity do not exceed 20 percent of the total number of hours worked in the workweek by the employees under his direction; *Provided,* That this paragraph (f) shall not apply in the case of an employee who is in sole charge of an independent establishment or a physically separated branch establishment.

§ 1002.4 *Administrative employees.* An individual "employed in a bona fide administrative capacity" means any employee:

(a) Who is compensated for his services on a salary or fee basis at a rate of not less than $200 per month (exclusive of board, lodging, or other facilities), and

(b) (1) Who regularly and directly assists an employee in a bona fide executive or administrative capacity (as such terms are defined in these regulations), where such assistance is nonmanual in nature and requires the exercise of discretion and independent judgment; or

(2) Who performs under only general supervision, responsible nonmanual office or field work, directly related to management policies or general business operations, along specialized or technical line requiring special training, experience, or knowledge, and which requires the exercise of discretion and independent judgment; or

(3) Whose work involves the execution under only general supervision of special nonmanual assignments and tasks directly related to management policies or general business operations involving the exercise of discretion and independent judgment; or

(4) Who is engaged in transporting goods or passengers for hire and who performs, under only general supervision, responsible outside work of a specialized or technical nature requiring special training, experience, or knowledge, and whose duties require the exercise of discretion and independent judgment.

§ 1002.5 *Professional employees.* Any individual "employed in a bona fide professional capacity" means any employee who is:

(a) Engaged in work:

(1) Predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work, and

(2) Requiring the consistent exercise of discretion and judgment in its performance, and

(3) Of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time, and

(4) Whose hours of work of the same nature as that performed by employees not employed in an executive, administrative or professional capacity do not exceed 20 percent of the hours worked in the workweek by such employees; *Provided,* That where such non-professional work is an essential part of and necessarily incident to work of a professional nature, this subparagraph (4) shall not apply, and

(5) (i) Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes; or

(ii) Predominantly original and creative in character in a recognized field of artistic endeavor as opposed to work which can be produced by a person endowed with general manual or intellectual ability and training, and the result of which depends primarily on the invention, imagination, or talent of the employee, and

(b) Compensated for his services on a salary or fee basis at a rate of not less than $200 per month (exclusive of board, lodging, or other facilities); *Provided,* That this paragraph (b) shall not apply in the case of an employee who is the holder of a valid license or certificate permitting the practice of law or medicine or any of their branches and who is actually engaged in the practice thereof.

§ 1002.6 *Salary payments.* The terms "salary" and "salary payment" mean only such salaries over which the Commissioner has jurisdiction. (See § 1002.10.) These terms are not used in any restricted, narrow or technical sense, but encompass all forms of direct or indirect compensation for personal services of an employee which is computed on a weekly, monthly, annual or other basis, other than wages (as defined in the General Regulations and in orders or rulings of the Board). Bonuses, gifts, loans, commissions, fees, additional compensation and any other remuneration in any form or medium whatsoever are considered as falling within the concept of "salary" or "salary payment". Any compensation which is not regarded as wages in the commonly accepted sense of the term is salary notwithstanding that it may be computed on an hourly, daily or piece-work basis.

Retainer fees paid to an individual, not otherwise an employee, are not to be considered as salary. (See § 1002.8 re insurance and pension benefits).

Although the terms "salary" and "salary payment" do not include any compensation other than for personal services of an employee, the Commissioner is not precluded from determining, after investigation, that amounts denominated, for example, as rents or royalties are in fact salary payments subject to the controls set forth in the regulations in this part.

All amounts paid to, authorized to be paid to, or accrued to the account of any employee during a calendar year for services rendered or to be rendered are to be included as salary for such year.

§ 1002.7 *Salary rate.* The term "salary rate" means that rate or aggregate of rates or other basis at which the salary for any particular work or service is computed, either under the terms of a contract or agreement, express or implied, or in conformity with custom or usage existing in the employer's business establishment. For treatment of commissions and bonuses on a percentage basis see § 1002.14.

§ 1002.8 *Insurance and pension benefits.* Compensation may include insurance and pension benefits. In determining the amount of salary of an employee, the insurance or pension benefit inuring to such employee is not measured by what he will be entitled to receive after the happening of certain contingencies, but rather in terms of the amount of contributions or premiums paid by the employer. To the extent that an insurance and pension benefit inuring to an employee is reasonable in amount, such benefit is not considered as salary as defined in § 1002.6.

Contributions by an employer to an employees' retirement plan, which plan meets the exemption requirements of section 165 (a) of the Code (as of the date the contributions are made), shall be considered as reasonable, regardless of the amount of such contributions; *Provided, however,* That contributions by an employer to a stock bonus or profit sharing plan meeting the requirements of such section 165 (a) providing benefits distributable other than on the death, retirement, sickness or disability of the employee shall be treated as salary. On the other hand, contributions by an employer to an employees' pension trust which is subject to Federal income taxation or which does not meet the requirements of such section 165 (a) shall be treated, for purposes of the regulations in this part, as salary.

Amounts paid by an employer on account of insurance premiums on a policy on the life of an employee, the beneficiaries of which are designated by the employees, to the extent that they do not exceed 5 percent of the employee's annual salary determined without the inclusion of insurance and pension benefits and without the inclusion of bonus and additional compensation, are not considered as salary. The type of insurance on the life of the employee referred to in this section is the ordinary or whole life policy which does not provide for a cash surrender or loan value, or both, amounting to a large percentage of the premiums paid. For example, premiums on endowment policies, single premium life insurance policies, fixed payment life insurance policies, and other similar policies shall be considered salary. The payment of insurance premiums on

ordinary or whole life policies referred to in the preceding sentence must be for the benefit of more than a small number of selected individuals.

For example. An employer having 10 salaried employees takes out life insurance policies on each of such employees in favor of beneficiaries designated by them. The premiums paid for 5 of the employees are in each instance 7 percent of the employee's annual salary (exclusive of insurance and pension benefits). As to the remaining 5 employees the premiums in each instance are 5 percent of the employee's annual salary (exclusive of insurance and pension benefits). As to the first 5 employees, 2 percent of the premiums in each instance would be considered as salary, whereas no part of the premium will be considered as salary in the case of the second group of employees.

Premiums paid by an employer on policies of group life insurance without cash surrender value covering the lives of his employees, or on policies of group health or accident insurance, the beneficiaries of which are designated by such employees, do not constitute salary (regardless of the amount of salary otherwise received annually by such employees).

§ 1002.9 *Approval by Commissioner.* Wherever the terms "approval by the Commissioner" and "determination by the Commissioner" are used in these regulations they shall, except as otherwise provided, include an approval or determination by a regional officer of the Salary Stabilization Unit established by the Commissioner under Treasury Decision 5176, which officer is authorized to make such determination. If an approval or determination made by such regional officer is subsequently modified or reversed by the Commissioner, such approval or determination shall be deemed to have been continuously in effect from its original date until the first day of the payroll period following reversal or modification, or until such later date as the Commissioner may provide in his ruling.

To illustrate, an employer obtains the approval of a regional officer of the Salary Stabilization Unit that a proposed increase in certain salaries is permissible. The approval is given on January 2, 1943, and the salary increase is to become effective January 15, 1943. On March 15, 1943, the Commissioner determines that the salary increase was not proper and reverses the approval given by the regional officer. The Commissioner provides in his ruling that the increase in salary shall be discontinued after March 31, 1943. For purposes of the regulations in this part, no part of the salary for the period between January 15 and March 31 shall be considered to have been in contravention of the Act.

SUBPART B—JURISDICTION OF COMMISSIONER

§ 1002.10 *Amount of salary payment.* The General Regulations provide that the Commissioner, except as otherwise provided in Executive Order 9299 of February 4, 1943, prescribing regulations and procedure with respect to wage and salary adjustments for employees subject to the Railway Labor Act, shall have authority to determine, under regulations to be prescribed by the Commissioner with the approval of the Secretary of the Treasury, whether salary payments are made in contravention of the Act. The Commissioner's jurisdiction is confined to cases where the rate at which the salary, exclusive of bonuses and additional compensation and without regard to the contemplated adjustment, computed on an annual basis, is:

(1) In excess of $5,000 per annum, in the case of individuals employed in any capacity whatsoever; and

(2) $5,000 or less per annum, in the case of individuals (i) who are employed in bona fide executive, administrative or professional capacities, and (ii) who in their relations with their employer are not represented by duly recognized or certified labor organizations, and (iii) whose services are not within the meaning of "agricultural labor" as defined in § 4001.1 (i) of the General Regulations.

Other salary payments are subject either to the jurisdiction of the Board or the War Food Administrator, as prescribed in the General Regulations. If, for example, the rate of salary, exclusive of bonuses and additional compensation, is to be increased from $4,500 per annum to $5,200 per annum (and subparagraph (2) is inapplicable), approval of such increase, if required, must be obtained from the Board.

§ 1002.11 *Conclusiveness of determination.* (a) Any determination by the Commissioner that a salary payment is in contravention of the Act is conclusive in every respect upon all executive departments and agencies of the Federal Government for the following purposes:

(1) Determining costs or expenses of any employer for the purpose of any law or regulations, either heretofore or hereafter enacted or promulgated, including the Emergency Price Control Act of 1942, or any maximum price regulation thereunder;

(2) Calculating deductions under the revenue laws of the United States; or

(3) Determining costs or expenses under any contract made by or on behalf of the United States.

(b) Any such determination of the Commissioner is final and not subject to review by The Tax Court of the United States or by any court in any civil proceedings. Nothing herein is intended, however, to deny the right of any employer or employee to contest in The Tax Court of the United States or in any court of competent jurisdiction the validity of:

(1) Any provision of the regulations in this part on the ground such provision is not authorized by law, or

(2) Any action taken or determination made under the regulations in this part, on the ground that such action or determination is not authorized, or has not been taken or made in a manner required, by law.

§ 1002.12 *Geographical scope.* The provisions of the regulations in this part shall not apply to salaries in any Territory or possession of the United States, except Alaska and Hawaii.

SUBPART C—SALARY INCREASES

§ 1002.13 *Commissioner's approval required.* Section 1 of the Act provides in effect that salaries, so far as practicable, shall be stabilized at the levels which existed on September 15, 1942. In the case of a salary rate of $5,000 or less per annum existing on October 27, 1942, or established thereafter in compliance with the regulations in this part and in the case of a salary rate of more than $5,000 per annum existing on October 3, 1942, or established thereafter in compliance with these regulations, no increase shall be made by the employer, except as provided in § 1002.14, without prior approval of such increase by the Commissioner. Any salary increase made before the required approval of the Commissioner is obtained is from the date of such increase in contravention of the Act. (See §§ 1002.28 and 1002.29 for the consequences of a salary payment made in contravention of the Act.) The Commissioner may, however, approve an increase in salary rate to be effective as of the date of the application for approval.

The burden of justifying an increase in salary rate shall in every instance be upon the employer seeking to make such increase. Increases in salary rates will not be approved except in the following cases:

(1) Such increases as are clearly necessary to correct substandards of living.

(2) Such adjustments as may be deemed appropriate by the Commissioner and have not heretofore been made to compensate in accordance with the Little Steel formula, as heretofore defined by the Board, for the rise in the cost of living between January 1, 1941 and May 1, 1942.

(3) Salary revisions clearly necessary to adjust salaries up to the minimum of the tested and going rates paid for the same work in the same or most nearly comparable plants or establishments in the same labor market, except in rare and unusual cases in which the critical needs of war production require the setting of a salary at some point above the minimum of the going salary bracket.

(4) Reasonable adjustments may be made with the approval of the Commissioner in case of promotions, reclassifications, merit increases, incentive wages, or the like, provided that such adjustments do not increase the level of production costs appreciably or furnish the basis either to increase prices or to resist otherwise justifiable reductions in prices.

In connection with the approval of wage and salary adjustments necessary to eliminate substandards of living or to give effect to the Little Steel formula or in connection with the adoption of a longer work week, salary adjustments may be approved for workers in immediately interrelated job classifications to the extent required to keep the minimum differentials between immediately interrelated job classifications necessary for the maintenance of productive efficiency. Such adjustments are to be tapered off rigorously in application to higher job classifications so as to apply only to the extent necessary for pro-

ductive efficiency in the interrelated job classifications.

A promise made by an employer to his employees prior to October 3, 1942 that salaries would be increased in the future is generally to be ignored in determining whether an increase after that date should be approved. The same rule is applicable with respect to a promise made by an employer prior to October 27, 1942, in the case of employees whose salary rates are $5,000 or less per annum.

An employer who has established a new job classification, or who has begun business, after October 3, 1942, must obtain approval of the Commissioner for the payment of salaries for such job classification or in such new business; *Provided, however,* That if the salary rates in question are not in excess of the minimum of those prevailing for similar job classifications within his own organization or if no such rates are available, then within the local area on September 15, 1942, the approval of the Commissioner is not required. An increase in a salary rate for a job classification established after October 3, 1942, shall be subject to the limitations provided in this subpart.

A mere change in the name, organization, or financial structure of an employer, whether such employer be an individual, partnership or corporation, will not in itself be sufficient for a finding that, for the purposes of the regulations in this part, a new business has been begun or new job classification established after such change.

Any change in a salary rate, regardless of its effective date, which results from an award or decision of an arbitrator or referee made after October 3, 1942, in the case of salaries of more than $5,000 per annum, and after October 27, 1942, in the case of salaries of $5,000 or less per annum, is subject to the provisions of the regulations in this part notwithstanding that the agreement or order for arbitration or reference was made on or before October 3, 1942 or October 27, 1942, as the case may be.

Unless otherwise expressly exempted, any change in a salary rate, provided for in any agreement existing as of October 3, 1942 in the case of salaries of more than $5,000 per annum, or as of October 27, 1942 in the case of salaries of $5,000 or less per annum, which is to take effect at some future date or on the happening of some future event, is subject to the provisions of the regulations in this part regardless of when the agreement was made.

Payment for overtime will constitute an increase in salary rate, and thus will require the approval of the Commissioner, unless the customary practice of the employer has been to pay for overtime, and the rate and scheduled number of overtime hours of work have not been changed. Pay in lieu of vacations to employees receiving not in excess of $7,500 a year does not require the prior approval of the Commissioner if computed in accordance with a vacation policy established prior to October 3, 1942, and if computed at not in excess of the straight time rate for the normal (unextended) work week.

Except as may be otherwise provided from time to time by the Commissioner, an application for the approval of a salary increase shall be filed by the employer with the regional office of the Salary Stabilization Unit of the Bureau of Internal Revenue in whose territorial jurisdiction the main office or principal place of business of the employer is located. Such application shall be filed on forms prescribed by the Commissioner and shall contain such information as may be required by the Commissioner.

§ 1002.14 *Commissioner's approval not required.* The Commissioner's approval is not required where a reasonable increase in the rate at which the salary, exclusive of bonuses and additional compensation, is computed is made both in accordance with the terms of a salary plan or a salary rate schedule in effect on October 3, 1942, or approved thereafter by the Commissioner, and as a result of:

(1) Individual promotions or reclassifications.

(2) Individual merit increases within established salary rate ranges.

(3) Operation of an established plan of salary increases based on length of service within established salary rate ranges.

(4) Increased productivity under incentive plans.

(5) Operation of a trainee system.

(6) Such other reasons or circumstances as may be prescribed in rulings or regulations promulgated by the Commissioner from time to time.

For purposes of this section, the term "salary plan" or "salary rate schedule" may include a salary policy in effect on October 3, 1942, even though not evidenced by written contracts or written rate schedules. For example, a salary policy may be determined from previous payroll records or other payroll data. The existence of such policy, however, must be established to the satisfaction of the Commissioner, and the burden of proof rests upon the employer. In such cases, the employer in advance of making an increase in salary rate may reduce the salary policy to writing and secure approval thereof by the Commissioner. Top salary rate of a given job classification shall not be increased, without approval, to a salary in excess of a maximum salary paid for the given job classification for a period of years prior to October 3, 1942. Promotions and reclassifications for the purpose of this section comprehend only cases involving materially increased responsibilities or a substantial change in the nature of the work performed. Merit increases within a given salary range and increases based upon length of service shall not exceed in frequency or in maximum amount the frequency or maximum amount given in such positions in that salary range during normal periods as established by the employer's records or for a period of years prior to October 3, 1942, and there shall be no substantial increase in the average salary in any given salary range.

Except as provided in the following sentence, a bonus or other form of additional compensation which does not exceed in amount the bonus or other additional compensation to such employee for the last bonus year ending before October 3, 1942, does not require approval by the Commissioner, provided the employee has not been allowed or received an adjustment in his salary rate since October 3, 1942 or October 27, 1942, as the case may be. A bonus regularly paid based upon a fixed percentage of salary (exclusive of bonuses and additional compensation) where the percentage has not been changed, does not require approval by the Commissioner even though the amount may be increased due to an increase in salary (exclusive of bonuses and additional compensation) authorized under these regulations. Any other bonus or other form of additional compensation requires approval by the Commissioner.

The term "last bonus year" ending before October 3, 1942, means the employer's last accounting year, calendar or fiscal, ending prior to that date. For example, an employer operating on a fiscal year ending on August 31 would have as his last bonus year prior to October 3, 1942, the fiscal year ending August 31, 1942.

With respect to the limitation on the effect of increases made under this section see § 1002.14a.

The provisions of this section may be illustrated as follows:

(1) The X Corporation began business in 1940. As of July 1, 1942, pursuant to a corporate resolution duly passed in January 1942, all of its salaried employees received more than $5,000 per annum. No approval of the Commissioner is required to increase the salary of an employee who is promoted in November 1942 from a salesman to general manager and who receives a salary within the salary range paid previously to individuals occupying the position of general manager.

(2) The X Corporation in December 1942 wishes to establish a new salary rate schedule raising the level of compensation of all its salaried employees. Approval by the Commissioner of such schedule is required. Assuming that such approval has been obtained, further approval by the Commissioner of any adjustment under such schedule coming within this section is not required.

(3) The Y Corporation begins business November 1, 1942. The salaries paid by it to its employees are commensurate with salaries paid by other employers in comparable businesses in the same local area. Payment of such salaries does not require the approval of the Commissioner. Any increase in salary rates, however, requires the approval of the Commissioner.

(4) The M Corporation, which has manufactured furniture since 1925, is reorganized in November 1942 and emerges from the reorganization proceedings as the N Corporation. There is no change in the nature of the business although there is a substantial alteration in the financial structure of the company. The N Corporation is not to be treated as a new employer beginning business after October 27, 1942. Consequently, any general increase in salaries over and above those paid by the M Corporation requires the prior approval of the Commissioner.

(5) Employees of the Z Corporation have customarily received a bonus of 5 percent of their annual salary at the end of each calendar year. If, for example, one of the employees received $6,000 in 1941 but received salary of $7,000 in 1942 due to a salary increase authorized under these regulations on November 1, 1942, a bonus of $350 may be paid to him for 1942 without prior approval of the Commissioner, notwithstanding that his bonus for 1941 was only $300.

§ 1002.14a *Limitation on effect of increases.* No increase in salary rate, whether made with the approval of the Commissioner or not requiring his approval, shall increase the level of production costs appreciably or furnish the basis either to increase prices or to resist otherwise justifiable reductions in prices, or furnish the basis for further wage or salary increases.

§ 1002.15 *Salaries under $5,000.* In the case of a salary rate existing as of the close of October 3, 1942, or established thereafter in compliance with these regulations, under which an employee is paid a salary of less than $5,000 per annum for any particular work, the general rule is that no decrease can be made by the employer in such salary rate below the highest salary rate paid for such work in the local area between January 1, 1942, and September 15, 1942. A decrease is permited, however, with the approval of the Commissioner, in order to correct a gross inequity in any case or to aid in the effective prosecution of the war. Where such decrease is permitted the salary rate may be reduced below the highest salary rate paid for the work in question between January 1, 1942 and September 15, 1942. Except as otherwise provided in this section, any decrease in such salary rate after October 3, 1942 shall be considered in contravention of the Act if it is made prior to the approval thereof by the Commissioner.

Except as may be otherwise provided from time to time by the Commissioner, an application for approval of any salary decrease shall be filed in the same manner as in the case of an application for approval of a salary increase. See § 1002.13.

The Commissioner's approval is not required, for example, in the following cases where salary decreases are made after October 3, 1942:

(1) The new salary rate does not fall below the highest salary rate existing between January 1, 1942, and September 15, 1942, for the particular work in question or for the same or comparable work in the local area.

(2) An employee has been demoted to a lower position than that filled by him between January 1, 1942, and September 15, 1942, and the salary rate for such lower position is not less than the highest salary rate existing for that position during the same period.

(3) An employee has been relieved of substantial duties and responsibilities.

A disparity between salaries paid by a particular employer and those paid by employers generally in the local area does not necessarily constitute justification for decrease in salary rates paid by such employer. The words "for any particular work" in the first sentence of this section refers to the particular work of the particular employee and not merely to a particular type of work.

§ 1002.16 *Salaries over $5,000.* In the case of a salary rate existing as of the close of October 3, 1942, or established thereafter in compliance with the regulations in this part, under which an employee is paid a salary of more than $5,000 per annum, the employer is permitted to make, without approval by the Commissioner, a decrease to a rate not less than $5,000 per annum. If, however, by virtue of a decrease the new salary paid to the employee is less than $5,000 per annum, then the decrease below $5,000 per annum is subject to the limitations of § 1002.15. To the extent that prior approval by the Commissioner of a decrease is not required under § 1002.15 or this section, such decrease shall not be considered as being in contravention of the Act.

SUBPART E—GOVERNMENTAL EMPLOYEES

§ 1002.17 *State and local employees.* An adjustment in salaries (not fixed by statute, see § 1002.32) may be made by a State, or any political subdivision thereof, the District of Columbia, or any agency or instrumentality of any of the foregoing in all cases where such adjustment is of the type referred to in § 1003.13. Any such adjustment will be deemed to have received the approval of the Commissioner.

SUBPART G—EFFECT OF UNLAWFUL PAYMENTS

§ 1002.28 *Amounts disregarded.* (a) Section 5 (a) of the Act provides in effect that the President shall prescribe the extent to which any salary payment made in contravention of regulations promulgated under the Act shall be disregarded by executive departments and other governmental agencies in determining the costs or expenses of any employer for the purpose of any other law or regulation. In any case where a salary payment is determined by the Commissioner to have been made in contravention of the Act, the entire amount of such payment is to be disregarded by all executive departments and all other agencies of the Federal Government for the purposes of:

(1) Determining costs or expenses of any employer for the purpose of any law or regulation, either heretofore or hereafter enacted or promulgated, including the Emergency Price Control Act of 1942, or any maximum price regulation thereof.

(2) Calculating deductions under the revenue laws of the United States.

(3) Determining costs or expenses under any contract made by or on behalf of the United States.

A payment in contravention of the Act may be disregarded for more than one of the foregoing purposes.

(b) In the case of salaries decreased in contravention of the Act, the amount to be disregarded, as required by paragraph (a) of this section, is the amount of the salary actually paid or accrued by the employer at the reduced rate. Thus, if, for example, on November 1, 1942, a weekly salary rate of $100 has been unjustifiably reduced to $50 for the remainder of the calendar year 1942, the amount to be disregarded under paragraph (a) of this section is the total amount of salary paid at the weekly rate of $50.

(c) In the case of salaries increased in contravention of the Act, the amount to be disregarded, as required by paragraph (a) of this section, is the amount of the salary actually paid or accrued by the employer at the increased rate and not merely an amount representing an increase in such salary. Thus, if, for example, on November 1, 1942 a weekly salary rate of $100 is unjustifiably increased to $150 for the remainder of 1942, then the amount of salary to be disregarded for purposes of paragraph (a) of this section is the total amount paid at the weekly rate of $150. Also, if, for example, on February 1, 1943 a weekly salary rate of $100 is increased to $150 without prior required approval, but is restored to $100 on June 1, 1943, after formal disapproval by the Commissioner or regional officer, then the amount of salary to be disregarded for purposes of paragraph (a) of this section is the total amount at the weekly rate of $150. Neither in the cases described in this paragraph nor in the case described in paragraph (b) of this section are the total amounts paid at the weekly rate of $100 to be disregarded for purposes of paragraph (a) of this section. (See § 1002.30 relating to salary allowances under section 23 (a) of the Code.)

§ 1002.29 *Criminal penalties.* Section 5 (a) of the Act provides in substance that no employer shall pay, and no employee shall receive, any salaries in contravention of the regulations promulgated by the President under the Act. Section 11 of the Act provides that any person, whether an employer or employee, who willfully violates any provision of the Act or of any regulations promulgated thereunder, shall be subject, upon conviction, to a fine of not more than $1,000 or to imprisonment for not more than one year, or to both such fine and imprisonment.

§ 1002.30 *Salary allowances under Code.* Under section 23 (a) of the Code reasonable allowances for salaries are allowed as deductions in computing net income. The tests which determine whether an allowance for salaries paid or accrued is reasonable within the meaning of section 23 (a) of the Code are in nowise suspended by any provision of these regulations. An employer may be exempt from the operation of these regulations yet be denied deductions for purposes of section 23 (a) of the Code with respect to the salaries paid or accrued by him.

SUBPART H—EXEMPTIONS

§ 1002.31 *Exempt employers.* The provisions of these regulations shall not apply in the case of an employer who employs eight or less individuals in a single business. An employer is subject to the provisions of these regulations if at the time a salary increase is to take effect he

has in his employ more than eight individuals in a single business. It is not necessary that each employee be paid a salary provided all the individuals employed receive compensation for their personal services. If it is subsequently determined that the number of employees has been temporarily reduced by the employer, or that the employer has utilized any other improper device, for the sole purpose of claiming the exemption provided in the General Regulations and these regulations, then such exemption shall be deemed to have been improperly obtained and of no force or effect.

An employer may be exempt under this section notwithstanding that shortly after the effective date of a salary increase he enlarges his personnel in good faith to more than eight employees. Any further adjustment in salary will then be subject to the provisions of the regulations in this part.

§ 1002.32 *Statutory salaries.* The provisions of the regulations in this part are applicable in every respect to any salary paid by the United States, any State, Territory, or possession or political subdivision thereof, the District of Columbia, or any agency or instrumentality of any one or more of the foregoing, except where the amount of such salary is fixed by statute. The term "statute" for purposes of this section does not include a municipal ordinance or resolution enacted by a governmental unit inferior to a State, Territory, or possession. Salaries covered by the Federal Classification Act of 1933, as amended, are excluded from the operation of these regulations. Likewise, salaries, for example, of public school teachers which are paid under salary schedules fixed by a state legislature and providing for mandatory increments are excluded from the operation of the regulations in this part. (See § 1002.17.)

§ 1002.33 *Services in foreign countries.* The provisions of the regulations in this part shall not be applicable in the case of any individual employer, resident in the United States or any Territory or possession thereof, or of a corporate employer organized under the laws of the United States or any State, Territory or possession, with respect to salaries paid by such employers to employees for services rendered exclusively in foreign countries.

§ 1002.34 *Foreign employers.* The provisions of the regulations in this part shall not be applicable in the case of nonresident foreign employers except that if any salary is paid to an employee residing in the United States payment of such salary is subject to all the provisions of the regulations in this part.

§ 1002.35 *Applicability.* The regulations in this part supersede, as of the date of their approval, the regulations of December 2, 1942 (T.D. 5186, 7 F.R. 10050), as amended September 4, 1943 (T.D. 5294), and are applicable to all salary adjustments within the jurisdiction of the Commissioner made after that date.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved: September 4, 1943.

HERBERT E. GASTON,
Acting Secretary of the Treasury.

[F. R. Doc. 43-14624; Filed, September 6, 1943; 3:56 p. m.]

TITLE 32—NATIONAL DEFENSE

Chapter VIII—Office of Economic Warfare

Subchapter B—Export Control

[Amendment 100]

PART 801—GENERAL REGULATIONS

PROHIBITED EXPORTATIONS OF VEGETABLES

Section 801.2 *Prohibited exportations* is hereby amended in the following particulars:

In the column headed "Shipping Priority Rating" the shipping priority rating assigned to the commodities listed below, at every place where said commodities appear in said section, is hereby deleted and in the column headed "General License Group" the group designation assigned to the commodities listed below, at every place where said commodities appear in said section, is hereby amended to read as follows:

Commodity	Department of Commerce No.	General license group
Onions, fresh	1208.00	None
Potatoes, white (include seed potatoes)	1211.00	None

Shipments of the above commodities which are on dock, on lighter, laden aboard the exporting carrier, or in transit to a port of exit pursuant to an actual order for export prior to the effective date of this amendment, may be exported under the previous general licence provisions. Shipments moving to a vessel subsequent to the effective date of this amendment pursuant to Office of Defense Transportation permits issued prior to such date may also be exported under the previous general license provisions.

This amendment shall become effective with respect to "Onions, fresh 1208.00" September 15, 1943 and with respect to "Potatoes, white (include seed potatoes) 1211.00" same shall become effective October 15, 1943.

(Sec. 6, 54 Stat. 714; 55 Stat. 206, 77th Cong.; 56 Stat. 463, 77th Cong.; Order No. 3 and Delegation of Authority No. 25, 7 F.R. 4951; Delegation of Authority No. 47, 8 F.R. 8529; Executive Order No. 9361, 8 F.R. 9861 and Order No. 1, 8 F.R. 9938)

Dated: September 6, 1943.

C. VICTOR BARRY,
Chief of Office,
Office of Exports.

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Chapter XI—Office of Price Administration

PART 1315—RUBBER AND PRODUCTS AND MATERIALS OF WHICH RUBBER IS A COMPONENT

[RO 1E]

MILEAGE RATIONING; TIRE REGULATIONS FOR THE TERRITORY OF HAWAII

Preamble: In December, 1942, an integrated tire and gasoline rationing program was adopted in the continental United States. Its primary objective was to conserve our large and valuable inventory of tires mounted on automobiles through a forced reduction in driving to be accomplished by nation-wide gasoline rationing. The adoption in the Territory of Hawaii of gasoline rationing regulations modeled on those in effect on the mainland, but modified to suit peculiarly local conditions, goes hand in hand with the adoption of this Ration Order which is designed to do in Hawaii what has already been done on the mainland: namely, the preservation of tire carcasses through a liberal recapping policy, and the rationing of new and used tires on the basis of the applicant's importance to the war effort and public need, as evidenced by his driving requirements and gasoline allotments.

§ 1315.19 *Mileage rationing; tire regulations for the Territory of Hawaii.* Under the authority vested in the Office of Price Administration and the Price Administrator of Executive Order 9125 issued by the President on April 7, 1942, by Directive 1 and Supplementary Directive 1-Q of the War Production Board, issued January 24 and November 6, 1942, respectively, and under the authority vested in me by General Order No. 48 of the Price Administrator, issued March 5, 1943, this Ration Order No. 1E (Mileage Rationing: Tire Regulations for the Territory of Hawaii), which is annexed hereto and made a part hereof is hereby issued.

RATION ORDER NO. 1E—MILEAGE RATIONING; TIRE REGULATIONS FOR THE TERRITORY OF HAWAII

ARTICLE I—SCOPE OF RATION ORDER NO. 1E

ARTICLE II—DEFINITIONS

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AUTHORITY: Sec. 1315.19 issued under Pub. Law 671, 76th Cong. as amended by Pub. Laws 89, 421 and 507, 77th Cong.; E.O. 9125, 7 F.R. 2719; WPB Dir. 1, 7 F.R. 562, Supp. Dir. 1-Q, 7 F.R. 9121, General Order No. 48, 8 F.R. 2898.

Article II—Scope of Ration Order No. 1E

SEC. 1.1 *Territorial limitations.* The provisions of this ration order shall apply only in the following islands of the Territory of Hawaii: Niihau, Kauai, Oahu, Lanai, Molokai, Kahoolawe, Maui and Hawaii.

SEC. 1.2 *Effect on outstanding certificates.* (a) No provision of this order shall affect the validity or valid period of any certificate issued pursuant to a Tire Ration Order in effect on any of the islands of the Territory prior to the effective date of this order.

(b) All certificates issued pursuant to any other Tire Ration Order previously in effect in the Territory which are valid after the effective date of this order, shall be subject to the same restrictions, prohibitions and conditions of use as though they were issued pursuant to this order.

(c) This ration order shall supersede the Revised Tire Rationing Regulations[1] insofar as applicable to the Territory of Hawaii, and all other Orders rationing tires, tubes, recapping service and camelback in the Territory of Hawaii: *Provided, however,* That any violations which occurred prior to the effective date of this Ration Order shall be governed by the orders, regulations and amendments thereto, in effect at the time such violations occurred.

[1] 7 F.R. 72.

Article II—Definitions

SEC. 2.1 *Definitions.* When used in this order:

"Acquire" means to accept a transfer.

"All-purpose family vehicle" means a pick-up truck of less than one-ton capacity if it is the only motor vehicle used for carrying passengers which is operated by an applicant and by all members of his household, and if it has regularly been used for family driving purposes.

"Board" means, as required by the context, one or more of the following types of organizations established by the Office of Price Administration: a War Price and Rationing Board; a Plant Area Board designated to serve the workers in specified military or naval establishments; or a Commercial Board designated to serve fleets of commercial motor vehicles and other specified vehicles or equipment operated by the same organization in a single county or island.

"Camelback" means any rubber compound designed for application to a worn tire to make a new tread in the process of recapping. Except where the context indicates otherwise, "camelback" refers to truck-type camelback only.

"Certificate," unless the context requires otherwise, means a certificate issued by a Board or other person or agency designated by the Office of Price Administration authorizing the acquisition of any tire, tube, recapping service or camelback.

"Commercial motor vehicle" means (1) a straight truck; a combination truck-tractor and trailer; a full or semi-trailer; a station wagon used primarily for transporting material or equipment in the course of an occupation; or any motor vehicle (except a motorcycle) built or rebuilt primarily for transporting property; but does not include an "all-purpose family vehicle"; (2) any of the following motor vehicles used in the transportation of persons on the highway: a bus; an ambulance or hearse; a taxi-cab or jitney; and any motor vehicle (except a motorcycle) available for public rental for periods of seven consecutive days or less; and (3) any other motor vehicle which is not a passenger automobile or motorcycle.

"Consumer" means any person who holds or acquires a tire or tube for use and not for resale.

"Dealer" means any person, other than a manufacturer, engaged in the business of recapping tires, or selling tires, tubes or camelback in the Territory of Hawaii.

"Director" means the person acting as Director of the Office of Price Administration for the Territory of Hawaii.

"Evidence" means a certificate; a receipt of delivery of tires, tubes or camelback to persons exempted by this order from procuring certificates, or a certification as to such delivery; and authorizations of the Office of Price Administration or of the War Production Board for the transfer of tires, tubes or camelback.

"Fleet," as applied to a passenger automobile or motorcycle, means that such vehicle is one of five or more passenger automobiles or of five or more motorcycles owned or leased by and used by the same person principally in connection with one or more related occupations, or as applied to a commercial motor vehicle, that such vehicle is one of five or more commercial motor vehicles owned or operated by the same person.

"Grade I," as applied to tires, means a new passenger-type tire.

"Grade III," as applied to tires, means a used or recapped passenger-type tire.

"Limited service," as applied to a passenger-type tire, means a rubber tire or casing which is unrecappable and which cannot be permanently repaired by means of a vulcanized sectional repair, a vulcanized reinforcement or a vulcanized spot repair.

"Mainland supplier" means a dealer or manufacturer within the continental United States who exports tires, tubes or camelback to dealers within the Territory.

"Manufacturer" means any person engaged in the business of manufacturing tires, tubes or camelback.

"Motorcycle" means any rubber-tired motor vehicle designed for highway operation on three wheels or less.

"Motorcycle tire" means any tire designed primarily for use on a motorcycle.

"New," as applied to tires and tubes, means a tire or tube that has been used less than 1,000 miles.

"Mounted," as applied to a tire or tube, means a tire or tube physically mounted or held for use upon a specific vehicle and includes spare tires or tubes not in excess of the number allowable under this order or under Ration Order No. 5F.

"Obsolete tire" means a passenge-type tire designed to fit the rim of a wheel 18 inches or more in diameter.

"Official," as applied to a passenger automobile or motorcycle, means that such automobile or motorcycle is owned or leased by a Federal, Territorial, local or foreign government or government agency, other than by the armed forces of the United States.

"Passenger automobile" means any motor vehicle built primarily for transporting persons on the highways which is not a commercial motor vehicle or a motorcycle; and any "all-purpose family vehicle."

"Passenger-type camelback" means Grade P camelback as defined by the War Production Board.

"Passenger-type tire" means any tire designed primarily for use on a passenger automobile.

"Person" means any individual, partnership, corporation, association, government or government agency, or any other organized group or enterprise.

"Recapper" means any person engaged in the business of recapping.

"Recapping" means the process of tread renewal in which camelback is applied to the tread surface of a tire.

"Recapping service" means the recapping of a certificate holder's tire with truck-type camelback or a transfer by a dealer or manufacturer to a certificate holder of a tire recapped with truck-type camelback in exchange for a recappable tire carcass.

"Rubber" means any form or type of natural, reclaimed or synthetic rubber, or other similar materials.

"Serial number" means the serial number either on the side wall or on the inner surface of a tire and the brand name or, if there is no number, the brand name alone.

"Tire" means any solid or pneumatic rubber tire or casing designed for use, or intended to be used on any vehicle, and capable of being used or repaired for such use.

"Transfer" means any change in right, title, interest, possession or control, including but not limited to sale, purchase, lease, loan, trade, exchange, gift, delivery, shipment and hypothecation.

"Truck-type camelback" means Grade A or Grade C camelback as defined by the War Production Board.

"Tube" means any rubber tube designed for use, or intended to be used within a tire casing on any vehicle, and capable of being used or repaired for such use.

"Used," as applied to tires and tubes, means any tire or tube which has been used 1,000 miles or more.

"Vehicle" means a passenger automobile, motor-cycle, farm implement, commercial motor vehicle, or vehicle designed for use for road grading, earth-moving or similar off-the-road purposes.

Article III—Administration and Jurisdiction

SEC. 3.1 *Personnel.* This order shall be administered by the Office of Price Administration through its Boards and such other administrative personnel as it may select. The persons appointed to administer this Order shall have the powers and duties set out herein, and as the Office of Price Administration may from time to time delegate.

SEC. 3.2 *Jurisdiction of Boards.* (a) For purposes of this order, a Board other than a Plant Area Board or a Commercial Board, shall have jurisdiction over:

(1) The issuance of certificates for all vehicles normally stationed or garaged within the area which it has been designated to serve. *Provided,* That certificates for fleet or official passenger automobiles or motorcycles shall be issued by the Board which issued the gasoline rations for such vehicles.

(2) The issuance of certificates for tubes to be used solely in recapping, if the mold in which the tube is to be used is within the Board's area.

(b) A Plant Area Board shall have jurisdiction over the issuance of certificates for the vehicles of workers employed in the establishment which the Board serves, unless a supplemental gasoline ration for the automobile was issued by the War Price and Rationing Board having jurisdiction over the area in which the automobile is normally garaged or stationed.

(c) A Commercial Board shall have jurisdiction over the issuance of certificates to operators of fleets of commercial motor vehicles and other designated vehicles or equipment in the county or island which it has been designated to serve.

SEC. 3.3 *Quotas.* (a) The Office of Price Administration, Washington, D. C., may from time to time set and allocate quotas and reserve quotas fixing the maximum number of tires or tubes and the maximum amount of recapping services for the acquisition of which certificates may be issued, and may administer, adjust and revoke such quotas.

(b) No Board shall issue a certificate for the acquisition of tires, tubes or recapping services in excess of its quotas, except that certificates for limited service tires shall be issued without regard to quota.

(c) If the Board has before it applications from persons eligible for tires, tubes or recapping services which in its judgment satisfy all the conditions of this order, but which together call for the issuance of certificates in excess of the applicable quota of the Board, it shall, in determining which of the competing needs are to be satisfied, be governed by the relative importance to the war program, public safety and public health, of the operation of a vehicle in one use as compared with the importance of the operation of a vehicle in another use. The Board shall base its determination upon the application, the gasoline ration for the vehicle for which tires, tubes or recapping services are sought, and all information which comes to its knowledge. The Board shall at all times serve the objectives sought to be accomplished by the tire rationing program and allot certificates for the most vital civilian uses and for uses essential to the war effort.

(d) A Board shall not issue a certificate for a spare tire to an applicant for a passenger automobile for which there has been issued only a basic ration under Ration Order No. 5F, except between the twenty-fifth and the last day of a month, and then only if it has no applications pending for passenger-type tires for running wheels. A certificate for recapping services for a spare tire may be issued, subject to quota, at any time during the month.

Article IV—Proof of Need and Eligibility

SEC. 4.1 *General proof of need.* No Board shall grant a certificate authorizing any consumer to acquire a tire, tube or recapping service, and no consumer shall accept such a certificate unless he is eligible under section 4.2, 4.4, or 4.5 and, in addition, meets all of the following conditions:

(a) *Immediate need.* That the tire, tube or recapping service is to equip a vehicle with a currently valid gasoline ration (if it is operated by gasoline) which is held for use and not for resale, and is:

(1) To equip a vehicle which requires tires or tubes because of alteration or reconstruction, or which, for reasons satisfactory to the Board, does not have the number of tires or tubes required for such vehicle;

(2) To replace a tire or tube which cannot be repaired or recapped;

(3) To replace a tire or tube which is not serviceable for the use to which the vehicle is to be put; or

(4) To recap a tire which requires recapping immediately to preserve it as a usable tire.

(b) *No abuse or neglect.* That the applicant has not in any manner abused or neglected, or permitted the tire or tube to be abused or neglected which he seeks to replace or recap. The Board may waive this condition if it finds that the community or the nation would suffer serious loss if the application were denied. The Board may consider, among other things, as evidence of tire abuse:

(1) That the vehicle for which a certificate is sought has been operated at a speed in excess of thirty-five miles per hour; or

(2) That the tire for which replacement is sought has become unfit for recapping through the fault of the applicant, such as failure to make timely application for a tire, failure to take precaution in the use of tires, driving for unnecessary purposes or when other means of transportation were available.

(c) *Unlawful mileage.* That the applicant has not used the tires or tubes which he seeks to replace on a vehicle which has been used for purposes prohibited by, or for mileage in excess of that allowed, by Ration Order No. 5F.

(d) *Ply construction.* That, if the application is for a certificate for a new passenger type tire of six or more ply construction, the vehicle upon which the tire is to be mounted cannot be operated satisfactorily in the use to which it is to be put, with a tire of less than six ply construction.

(e) *No available tire or tube.* That the applicant (other than a government or government agency) does not own or control any tires or tubes not already in use, which can be used or repaired for use in lieu of the tire or tube sought to be replaced.

(1) In determining whether the applicant has tires or tubes available, the Board may allow him to deduct from his count of available tires the number of spares which it considers necessary for the proper operation of his vehicles. This will normally be one spare for each motor vehicle, but it may be less in the case of fleets of vehicles or farm implements or slightly more for special equipment using a large number of tires of the same or different sizes.

(2) Applicants who are dealers need not consider their stock which is being held for resale, in determining the number of their available tires.

SEC. 4.2 *Eligibility of passenger automobiles*—(a) *Reconsideration of gasoline ration.* When application is made for a tire or tube for a passenger automobile, the Board shall reconsider the applicant's gasoline ration before passing on his application. It may require the applicant to furnish further information as to the use and mileage requirements of the vehicle.

(b) *Redetermination of ration.* If, upon reconsideration of the applicant's gasoline ration, the Board finds that he has been granted either a larger or a smaller ration than he is entitled to under Ration Order No. 5F, or a ration of a class other than that to which he is entitled, it shall recall excess gasoline coupons, issue a corrected gasoline certificate, or an additional or a different gasoline ration, for the corrected mileage. However, no gasoline rations shall be adjusted if application is made for a fleet or official passenger automobile using an interchangeable gasoline ration book, but such mileage redetermination shall be used as a basis for determining whether the applicant is entitled to a Grade I or a Grade III tire.

(c) *Eligibility for tires and tubes determined on basis of adjusted ration.* The Board shall then determine the applicant's eligibility for a tire or tube on the basis of his adjusted mileage, in accordance with the following provisions:

(1) An applicant who is entitled only to a basic gasoline ration may be issued a certificate for a Grade III tire and for a new or used tube;

(2) An applicant who is entitled to a supplemental ration may be issued a certificate for the class of Grade I tire which the Director has instructed the Board to issue for the total rationed mileage which the applicant drives.

(i) The classes of Grade I tires are: pre-war, 85% level and above; synthetic rubber; pre-war, below 85% level; and reclaimed rubber. The Director shall, when specifying the classes of Grade I tires which a Board may authorize, have due regard for the existing inventories

of each class of tires in each island, and the relationship between the allowed mileage of the applicant and the expected length of life of each class of tires.

(d) *Other limitations.* The following limitations are applicable in determining the class or grade of tire or the type of camelback that may be acquired on the basis of allowed mileage:

(1) The mileage allowed on a special ration shall not be included in the total rationed mileage;

(2) Mileage driven by policemen on official business for which they receive gasoline under section 6.8 of Ration Order No. 5F shall be included in the applicant's total rationed mileage.

(3) No certificate for a tire may be granted if the tire being replaced can be recapped, except under the circumstances set forth in paragraph (e).

(e) *Exception to eligibility; not governed by mileage.* (1) An applicant may obtain a certificate for any grade or class of tire or tube, if he establishes that the vehicle is used exclusively in maintaining firefighting services.

(2) An applicant who applies for an obsolete tire to replace a tire which cannot be recapped because of the inadequacy of recapping facilities may be given a certificate for an obsolete type tire in any grade or class.

(3) An applicant who applies for a tire to be mounted on a motorcycle to replace a tire which cannot be recapped because of the inadequacy of recapping facilities may be given a certificate for a new motorcycle tire, but only if a currently valid supplemental ration has been issued for the motorcycle.

(4) An applicant whose total rationed mileage would entitle him to a Grade I tire may be limited to a certificate for a Grade III tire if the length of time for which he will need his allowed monthly mileage will be substantially less than the normal life of a Grade I tire.

(5) An applicant for a tire for a passenger automobile which is not driven by gasoline as defined in Ration Order No. 5F, shall be entitled to no better than a Grade III tire, unless the mileage driven in such vehicle is primarily preferred mileage as specified in Section 5.6 of Ration Order No. 5F.

SEC. 4.3 *Additional proof of need for commercial motor vehicle.* In addition to meeting all the conditions of section 4.1, an applicant for a tire, tube or recapping service for a commercial motor vehicle must meet the following conditions:

(a) *Recapping if possible.* That, if the applicant is seeking to replace a tire, it is not capable of being recapped or that it cannot be recapped for safe use at the speeds at which the applicant may reasonably be expected to operate; and

(b) *Passenger type tires unavailable or wasteful.* That, if application is made for a truck type tire, a passenger type tire of suitable size is not available, or that the use of a passenger type tire would constitute a waste of rubber.

SEC. 4.4 *Eligibility of commercial motor vehicles.*—(a) *List A.* A certificate for any grade or type of tire or tube, or for recapping service may be granted only for a commercial motor vehicle which meets the applicable conditions of sections 4.1 and 4.3 and which is used exclusively for one or more of the following purposes:

(1) As an ambulance or hearse;

(2) The transportation of mail on behalf of the United States government;

(3) Maintaining fire-fighting services;

(4) Patrolling or investigation necessary to the maintenance of public police services;

(5) Maintaining garbage disposal and other sanitation services, disposing of refuse, maintaining sewage systems and similar purposes;

(6) Transporting passengers by a transportation system from which the general public may obtain service upon payment of a standard fare, if such services are rendered along regular routes or with regular schedules.

(i) No certificate shall be issued for a vehicle used for sightseeing trips or similar excursions.

(7) Transporting persons by chartered bus for similar purposes and under similar conditions as are imposed by General Order No. 10, and amendments thereto,[2] issued by the Office of Defense Transportation.

(8) Transporting students, teachers or other school employees between their homes or regular stops and regular places of instruction;

(9) Transporting workers (including executives, technicians, or office workers) to, from, within or between the establishments or facilities listed below, where other practicable means of transportation are not available:

(i) Naval, military or hospital establishments or facilities;

(ii) Establishments or facilities of common carriers, or other carriers performing services essential to the community or to the war effort; or plants engaged in the production or distribution of light, power, electricity, gas, or water; or irrigation, drainage, flood control or sanitation systems; or telephone, radio or other communications systems; or construction projects;

(iii) Industrial or agricultural establishments essential to the war effort;

(10) To transport disabled members of the armed forces to or from any hospital where their disabilities are treated, or to transport persons for the purpose of donating blood, provided that no public means of transportation are available, or that such persons cannot practicably use such means of transportation;

(11) To transport persons by taxicab or jitney under license issued by the appropriate governmental authority. No tire or tube obtained on a certificate issued under this sub-paragraph shall be used on any taxicab or jitney unless it:

(i) Carries as many persons as is legally and practically possible on each trip;

(ii) Is permanently and conspicuously marked as a taxicab or jitney;

(iii) Does not "cruise" for the purpose of seeking fares;

(iv) Is not used for sight-seeing purposes; and

(v) Is not used for the purpose of making commercial deliveries of property.

(12) As a rental car, if it is leased or rented by a person who is in full compliance with General Order No. 26A and amendments thereto,[3] issued by the Office of Defense Transportation.

(13) For transportation of any property by a common carrier which holds itself out to serve the public at standard rates, fixed in advance, and which does not serve persons whom it chooses as its customers on terms separately arranged for each customer.

(14) For transportation, by any carrier of the following kinds of property:

(i) Ice, fuel, and milk.

(ii) Materials and equipment for necessary construction projects or for necessary maintenance or repair (other than the installation, maintenance or repair of portable household equipment).

(iii) Wastepaper, scrap iron, scrap rubber and similar waste and scrap materials which may be used again in production.

(iv) Such other property, including foods and farm products, as is essential to the war effort, or to the public health and safety.

(v) Newspapers.

Provided, however, That no certificate shall be issued for a tire, tube, or recapping service for a commercial motor vehicle, except to a common carrier which meets the requirements of section 4.4 (a) (13) or to any other carrier which complies with the restrictions upon deliveries which may be prescribed from time to time by the Director, used: first, for transportation to the ultimate consumer of the property described in subdivisions (i) through (v) for personal, family or household use; second, for transportation to any person of alcoholic beverages, soft drinks and similar beverages, tobacco products, ice cream, confections, candy, flowers, toys, novelties, jewelry, furs, radios, phonographs, musical instruments, or any luxury goods; or third, for furnishing transportation for incidental maintenance service or for the purpose of installing or repairing any such effects, equipment, furniture or machines as are portable, or for the purpose of providing materials or service solely for landscaping or beautification of any construction project or other establishment.

(b) *List B.* A certificate for recapping service only, or for a tube, may be granted for a commercial motor vehicle which meets the applicable requirements of sections 4.1 and 4.3 and is used for any important purpose not included in paragraph (a), subject to the following conditions:

(1) Certificates may be granted under this paragraph only for recapping service, or for a tube to equip commercial motor vehicles performing functions which the Board may find to be essential to the community and which are not provided for in section 4.4 (a) (List A).

(2) No certificate shall be granted under this paragraph if its issuance would

[2] 7 F.R. 3785, 5950.

[3] 8 F.R. 4934.

exceed the quota applicable to recapping services or tubes or if there is pending any application for such services or for tubes for a commercial motor vehicle eligible under paragraph (a) which has not been satisfied.

SEC. 4.5 *Eligibility of special equipment.* (a) A certificate for a tire, tube or recapping service necessary to equip a vehicle which meets the applicable conditions of section 4.1 and is designed and used as one of the following, may be granted if tires are essential for its operation.

(1) A farm tractor or other implement.

(i) Tractors or combines may be issued certificates for the purchase of tractor tires or implement tires only. Other types of farm equipment may be issued certificates for implement tires only, except that if an implement or front wheel tractor tire of suitable size is not available, the Board may issue a certificate for the lowest suitable grade of tire.

(ii) No certificates for recapping services may be issued for farm tractor or other farm implements.

(2) Non-highway vehicles for road grading, earth moving or similar off-the-road purposes.

(b) A certificate for a spare tire or tube may be issued to equip any of the vehicles which satisfy the conditions of this section, if the Board finds that it is necessary for the efficient operation of the vehicle.

SEC. 4.6 *Eligibility of recappers for curing tubes.* A recapper may file an application for tubes to be used solely in recapping. He must establish that he does not have more than one serviceable air bag or tube of the required size for each mold operated by him, and that the tube applied for is necessary to the operation of the mold.

Article V—Applications and Certificates

SEC. 5.1 *Applications and certificates*—(a) *Who may execute and file.* Any person may apply for a certificate for tires, tubes or recapping services. Application may be made by an agent, but if the agent is not an employee of the applicant he may sign the application only if the applicant is physically unable to sign or is outside the Board's jurisdiction. No member or employee of the Board to which application is made, and no authorized tire inspector shall act as agent for an applicant. The Board may require that principal and agent, or owner and operator, join in an application. If application is made for tires, tubes or recapping services to equip a passenger automobile leased for a term of more than seven days, both the lessor and the lessee shall join in the application.

(b) *Form of application.* A separate application must be filed on OPA Form R–1 for each passenger automobile. One application may be made on OPA Form R–1 for all commercial motor vehicles or non-highway vehicles owned and operated by the same person, used for the same purposes and stationed or garaged within the area served by the Board. The applicant shall attach a statement giving the license number, model and make of each commercial motor vehicle or non-highway vehicle for which application is being made.

(c) *Contents of application.* Each applicant shall set forth facts showing the jurisdiction of the Board; facts showing the need and eligibility for the tires, tubes or recapping services for which application is made; and such additional information and commitments as may be required by the application or by the Board.

(d) *Presentation of tire inspection record.* Any applicant for a certificate who is required to have a tire inspection record (OPA Form R–534–B) shall present to the Board such record at the time of filing his application. If the serial numbers of any tire shown on the tire inspection record are different from those previously entered on the record, the applicant shall produce the part D of a certificate authorizing the acquisition of such tire. Tire inspection records for automobiles operated on official rations need not show the serial number of any tire.

(e) *Certification by applicant.* The applicant shall state the true and complete facts required by the application or by the Board to be set forth therein, and shall certify to such facts. Both principal and agent shall be bound by and deemed to have knowledge of all statements set forth in an application which has been made by an agent.

SEC. 5.2 *Certification by inspector prior to filing application*—(a) *Inspection of tires and tubes.* No consumer may file an application for a tire or tube or for recapping services with truck-type camelback and no such application shall be considered, until an inspector authorized by the Office of Price Administration has currently inspected the tires or tubes to be replaced or recapped, and has executed and signed the "Certification by Inspector" contained on the application form.

(b) *Thorough inspection required.* No inspector may certify to any fact concerning the condition of a tire or tube without making a personal and adequate inspection to determine such facts. The Board may require an additional inspection and certification by another inspector named by the Board.

(c) *No compensation to be paid for inspection.* No applicant may pay any compensation for the certification or the inspection required by this section, except that sums, not in excess of those set forth in the following schedule, may be paid the inspector or any other person for the service of removing and replacing a tire when it is necessary for inspection purposes:

SCHEDULE OF FEES FOR REMOVING AND REPLACING TIRES

Type of tire	*Fee each*
1. Passenger type tire	$ .50
2. Small truck tires (7.50 x 20 or smaller)	.75
3. Large truck tires (larger than 7.50 x 20)	1.00
4. Additional charge for removing inside dual truck tires (larger than 7.50 x 20)	.50

SEC. 5.3 *Investigation of facts by Board.* (a) Before issuing a certificate the Board may require such assurances and proof of such facts as it may deem necessary to determine whether an applicant should be issued a certificate. For this purpose the Board may make inquiries and investigations and may require an applicant to appear in person or by agent at the office of the Board at a designated time and supply such additional evidence and information or furnish such records and affidavits as may relate to the application.

(b) If the applicant has purchased a vehicle which has less than the number of tires and tubes permitted by section 4.1 (a), the Board shall require him to submit, together with his application, an affidavit from the vendor of the vehicle stating in full the reasons why the vehicle is not equipped with a sufficient number of tires or tubes. The Board must be satisfied from such affidavit that the vendor is not responsible for the lack of sufficient tires or tubes for the vehicle.

SEC. 5.4 *Applicant to be notified of Board's decision.* After acting upon an application the Board shall promptly notify the applicant of its decision and, if the application is denied in whole or in part, shall state its reasons.

SEC. 5.5 *Certificates non-transferable.* No certificate or any part thereof may be transferred except as authorized by this order or by the Office of Price Administration, or in exchange for tires, tubes, recapping service or camelback.

SEC. 5.6 *Action by certificate-holders* (a) *Use of certificate.* A certificate may be used at any time by the person to whom it was issued for the purposes specified thereon.

(b) *Replaced tires or tubes to be turned in.* Before acquiring a tire or tube in exchange for a certificate, the certificate holder must turn in to the dealer the tires or tubes which the certificate requires him to turn in, or make such other disposition of the tire or tube as the Office of Price Administration may direct.

(c) *Signing of certificates.* The applicant or his agent shall sign and execute the appropriate portions of the certificate in accordance with the instructions thereon prior to acquiring the tires, tubes or recapping service specified. No member or employee of the Board issuing the certificate, no authorized tire inspector, and no dealer shall act as agent of the applicant in signing the various parts of the certificate.

SEC. 5.7 *Action by suppliers.* (a) No recapper shall recap a tire and no dealer shall transfer a tire or tube pursuant to a certificate, until the applicant has turned in to him the tires or tubes required to be turned in by the certificate.

(b) No recapper or dealer shall recap or transfer tires or tubes until both he and the applicant have properly signed and executed the certificate.

(c) When the foregoing requirements have been fulfilled, the dealer to whom the certificate was surrendered shall deliver to the person indicated thereon, or to his agent, the exact number, type,

grade and class of tires or tubes, or the type of recapping service authorized by the certificate.

SEC. 5.8 *Splitting of certificates.* A certificate holder who is unable to acquire from one supplier all the tires, tubes or recapping service which he has been authorized to acquire shall return the certificate to the issuing Board which shall cancel it and issue as many new certificates as are necessary to permit the acquisition from several suppliers.

SEC. 5.9 *Revocation of certificates.* (a) Any certificates, part of a certificate or authorization issued under this order shall be subject to revocation, cancellation, suspension, correction or modification by a Board or other agent designated for this purpose by the Office of Price Administration.

SEC. 5.10 *Revocation of certificate issued by mistake.* Any certificate issued to a person not entitled thereto on the basis of the facts stated in the application and which has not been used by the person to whom it was issued, may be revoked by the issuing Board and the Board may order that such certificate be surrendered to it. If in such case the Board finds that the certificate holder is entitled to a tire or tube of a different grade or type, it shall, subject to quota limitations, issue a certificate for such tire or tube in lieu of the certificate revoked.

SEC. 5.11 *Revocation of certificate or declaration of ineligibility after hearing.* (a) (1) A Board, after hearing, may revoke or cancel any certificate already issued and unused and declare a consumer ineligible to receive a certificate for such period as it may deem appropriate in the public interest and require the surrender to it of certificates already issued pending the determination of the proceedings where a person has violated any of the provisions of this order or of Ration Order No. 5F.

(2) Such order of revocation and declaration of ineligibility shall be made pursuant to the following procedure:

(i) Written notice of the date, time, place and purpose of the hearing and the violation with which he is charged shall be served upon the person (hereinafter called the respondent) against whom the proceedings are instituted at least three days before the date set for the hearing. If the respondent has committed any of the acts or violations contained in the charge, the Board may by order revoke the certificates issued to him, direct him to surrender such certificates to the Board unless the certificate has been surrendered to a dealer, and declare that he shall not be eligible to receive a certificate for such period of time as the Board may deem appropriate in the public interest.

(ii) If a respondent against whom an order has been issued for failure to appear at the hearing shows, within a reasonable time not to exceed five (5) days from the effective date of such order, good cause to the Board for such failure, the Board may set aside such order and grant the respondent a full hearing on the charges made.

(iii) A copy of the order shall be served promptly on the respondent personally or by registered mail, return receipt requested, directed to his last known address, and two copies thereof shall be sent to the Territorial Office at Honolulu. The Board shall fix the effective date of such order except that if it fails to do so such order shall become effective 24 hours after personal service or delivery by mail as evidenced by the return receipt.

(iv) The Board may designate one or more members to perform the functions prescribed in this paragraph. The Board may appoint volunteer hearing officers approved by the Director to conduct hearings pursuant to this section. In matters on which a hearing officer has been appointed, he shall preside at the hearings and make an oral or written report of his findings to the Board, which shall decide the matter.

(b) Any person against whom an order has been issued pursuant to the provisions of paragraph (a) may within fifteen (15) days after the effective date thereof, appeal from such order by filing a statement of objections to the order with the Board which issued it. Within three days after the receipt of the statement the Board shall forward it, together with a copy of the notice instituting such proceedings, a copy of the record, if any, and a copy of the Board's order, to the Hearing Commissioner for the Territory of Honolulu. Within five (5) days after receipt of the statement the Hearing Commissioner shall notify the respondent and the Territorial Enforcement Attorney of the time and place set for the hearing. The appeal shall be heard and determined pursuant to the provisions of § 1300.169 of Procedural Regulation 4 and amendments thereto.

SEC. 5.12 *Tire Inspection Records*—(a) *Who must have.* Every person controlling the use of a passenger automobile for which a current gasoline ration has been issued, shall be issued a tire inspection record (OPA Form R-534-B). The record must be kept with the vehicle when in operation, unless its removal is permitted by an Office of Price Administration order or authorization. Upon transfer of a passenger automobile, the record pertaining to the vehicle, and Parts D of certificates for tires mounted on the vehicle, must be transferred with it. The provisions of this section 5.12 shall not apply to motorcycles, passenger automobiles operating only on special rations, or passenger automobiles not propelled by the use of gasoline as defined in Ration Order No. 5F.

(b) *Check of serial numbers.* The serial number of the tires mounted on a vehicle must be identical with those indicated on the tire inspection record, unless a valid Part D of a certificate is presented as evidence that the tire was obtained on certificate.

(c) *New tire inspection record upon transfer of passenger automobile.* When application for a new gasoline ration is necessary under section 11.6, Ration Order No. 5F, as a result of a change in ownership of a vehicle, the transferee must turn in the existing tire inspection record to the Board issuing the new gasoline ration and the Board shall issue a new record for the vehicle as provided in paragraph (a). Where the transferee is unable to present the tire inspection record, the Board, before issuing a new record, shall be satisfied that no tire inspection record has been issued for the vehicle, or that the transferee has made a diligent effort to obtain the tire inspection record.

(d) *Replacement of lost tire inspection records.* Any person who has lost a Tire Inspection Record for a passenger automobile shall apply to a Board for a new record. Before issuing such record, the Board shall reexamine and redetermine the current gasoline ration issued for such passenger automobile in accordance with section 4.2 (d) and shall satisfy itself that the serial numbers of the tires shown on such new record are those which were entered on the lost record or that discrepancies are accounted for by Parts D of certificates in the possession of the applicant.

Article VI—Prohibited and Permitted Transactions

SEC. 6.1 *Prohibition.* Notwithstanding the terms of any contract, agreement or other obligation, regardless of when made, no person, unless permitted by this order, or by an order, authorization or regulation issued by the War Production Board, shall:

(a) Make or offer to make, accept or offer to accept, or solicit a transfer of any tire, tube or camelback; or

(b) Use, alter or change the physical location of any tire, tube or camelback; or

(c) Mount any tire or tube upon a wheel or rim.

SEC. 6.2 *Mounting or use of tires or tubes*—(a) *Mounting or use generally.* A tire or tube may be mounted and used as follows, unless the mounting or use is prohibited by other provisions of this order, or involves a transfer of tires or tubes prohibited thereby:

(1) Upon the vehicle for which a certificate or authorization to acquire the tire or tube was granted under this order.

(2) Upon the vehicle on which it was mounted on August 1, 1943; Provided, that at the time the tires were mounted on the vehicle such mounting was not in violation of any previous tire or gasoline rationing regulations then in effect in the territory.

(3) Upon other vehicles, owned or operated by the same person, provided the tire or tube is needed for its operation or as an allowable spare, and if the person mounting the tire or tube will use the vehicle in operations which would make it eligible for the tube or the grade or type of tire in question. If the tire was obtained on certificate or authorization its grade at the time of acquisition, and not its present grade, shall control.

(4) Upon other vehicles not covered by subparagraph (3), only if authorized in writing by the Board having jurisdiction over the vehicle upon which the tire or tube is to be mounted. The Board may grant the authorization only when it is

satisfied that the mounting or use will result in a conservation of rubber, or in the more efficient use of tires in activities essential to the war effort, the public health or safety.

(b) *Mounting from stock prohibited.* No dealer or manufacturer shall mount or use tires or tubes taken from his stock unless he has obtained a certificate authorizing the mounting or use, or unless the tires or tubes were permanently removed from his stock and mounted on his vehicle prior to December 11, 1941.

(c) *Temporary transfer, mounting and use of used tires or tubes.* A person may temporarily transfer, without certificate, used tires or tubes to another person who may mount and use them to:

(1) Replace a tube which is being repaired or a tire which is being repaired or recapped;

(2) Move a wrecked or repossessed vehicle to a garage or other place of safety or storage;

(3) Move vehicles held for resale from one sales premises to another. Such tires or tubes shall be returned to the transferor within three days after the purpose for which the tires or tubes were transferred is accomplished.

SEC. 6.3 *Transfers to consumers upon certificate*—(a) *By dealers.* (1) A dealer may, in exchange for a certificate, transfer tires or tubes to a consumer.

(2) A dealer may not transfer to a consumer a tire that requires repair or recapping.

(3) A dealer may not refuse to transfer tires or tubes to a consumer who presents him with a proper certificate accompanied with cash, if the dealer has tires or tubes of the size, grade and class specified by the certificate in his stock, which have not yet been transferred to any other consumer or dealer.

(4) A dealer who does not have in stock a tire or tube which has been ordered by a consumer may, with the consumer's permission, transfer the replenishment portion of a certificate to another dealer or supplier and obtain the number of tires or tubes specified thereon, for transfer to the consumer.

(b) *By recappers or repairers.* No recapper or repairer shall transfer a recapped or repaired tire to a consumer unless the quality of his workmanship in recapping or repairing the tire at least conforms to the minimum quality specifications contained in Revised Price Schedule 66 and Maximum Price Regulation 107 issued by the Office of Price Administration.

(c) *By manufacturers.* A manufacturer may, in exchange for a certificate, lease tires or tubes to any person regularly engaged in the business of transporting passengers by bus, taxicab or jitney.

SEC. 6.4. *Dealer transfers within the Territory* — (a) *Establishments under common ownership.* No dealer may transfer or move tires, tubes or camelback to an establishment where the business of a dealer is performed except upon certificates or authorization of the Office of Price Administration, unless such transfer is expressly permitted under this order. If a dealer engages in the business of recapping tires or selling tires, tubes or camelback at two or more separate establishments he shall be considered a separate dealer for each such establishment, and the transfer or movement of tires, tubes or camel back between such establishments shall be subject to all the conditions that apply to transfers between separate dealers, unless expressly excepted by this order.

(b) *Changes of location.* A dealer may change the location of tires, tubes or camelback within a single establishment or the location of the establishment itself, including the entire stock of tires, tubes or camelback contained therein, if no change in ownership, possession or control occurs. He may also transfer tires, tubes or camelback to and from any warehouse which he owns or controls, for the purpose of storage only, if no change in ownership or control is thereby effected. A recapper may, without certificate or authorization, transfer camelback among recapping establishments owned or operated by him, if no change in the ownership or control of the camelback is thereby effected.

(c) *Tires or tubes*—(1) *Restrictions on transfer of Part B.* No person shall transfer Part B of a certificate (replenishment portion) and no person shall accept such transfer, unless the transferor's name and address are endorsed thereon. A Part B of a certificate shall become void for purposes of replenishment when it has been transferred three times for such purposes between dealers.

(2) *Permitted replenishment of tires or tubes.* A dealer may, in exchange for a properly endorsed replenishment portion of a certificate transfer to another dealer in the Territory the number, grade and type of tires or tubes authorized by these certificates.

(d) *Camelback*—(1) *For recapping.* A recapper may apply camelback to the tread surface of a tire carcass, provided, that no truck-type camelback shall be used in recapping a tire to be mounted on a "Passenger Automobile" unless its total rationed mileage is 1500 miles per month or more, and, in addition, its use is required under the following circumstances:

(i) At high speeds such as are necessary in investigating or patrolling for the maintenance of police services, or as an emergency maintenance vehicle; or

(ii) Over open country and unpaved roads; or

(iii) To carry heavier loads than are normally carried by passenger automobiles.

No recapper shall apply camelback to the tread surface of a tire carcass if it will not be serviceable as a recapped tire. No recapper shall apply any rubber substance other than camelback to the tread surface of the tire for the purpose of tread renewal unless authorized by the Office of Price Administration or the War Production Board.

(2) *Restrictions on transfers of Part B.* No person shall transfer the replenishment portion of a certificate calling for camelback and no person shall accept such transfer unless the name and the address of the transferor are endorsed thereon. A Part B of a certificate shall become void for purposes of replenishment when it has been transferred three times for such purpose between dealers in the Territory.

(3) *Permitted replenishment of camelback.* Any dealer may, in exchange for the properly endorsed replenishment portion of a certificate for camelback, transfer the amount of camelback specified in the following table to any other dealer.

Size of tire	*Pounds of camelback*
Smaller than 30 x 5	8½
30 x 5 up to but not including 7.50 x 18	12
7.50 x 18 up to but not including 9.00 x 20	16
9.00 x 20 up to but not including 12.00 x 20	22
12.00 x 20 and larger (regular truck type)	32
12.00 and up (but not including tires 12.00 x 24 and larger) used on farm tractors (rear tires only), road graders, earth-movers, and other similar equipment used primarily on off-the-road work	55
12.00 x 24 and larger	Amount necessary

(4) *Curing.* Any recapper may, without certificate, transfer to another recapper for the purpose of curing, a tire to which he has applied camelback, and the recapper who has cured the camelback may, without certificate, transfer the recapped tire to the recapper who applied the camelback.

(e) *Transfers without certificate upon authorization.* The following transfers of tires and tubes may be made without certificates, upon authorization by the Director or by any person to whom he has delegated his authority:

(1) From a consumer to another consumer or to a dealer.

(2) From one dealer to another dealer. Such authorization will be granted only to supply the transferee with an inventory of tires or tubes sufficient to constitute a working inventory, and only if the transferee does not have sufficient Parts B on hand for the type and grade of tires being transferred.

(f) *Stock recapping.* A dealer may recap basic tire carcasses in his own recapping plant upon authorization by the Director or a District Manager.

SEC. 6.5 *Authorizations for transfer by mainland suppliers*—(a) *Who may apply.* The following persons may apply to the Director for a replenishment certificate on OPA Form No. R-2 (revised) to acquire tires, tubes or camelback from a mainland supplier:

(1) A person who was a dealer or recapper on August 1, 1943;

(2) A person who intends in good faith to become a dealer or recapper if he, or a person in his employ has had previous experience in the servicing or recapping of tires, possesses equipment and facilities necessary to inspect and service tires properly and agrees to become a tire inspector. The Director may refuse to grant such person a certificate if granting it would defeat or impair the effectiveness or policy of this order.

(b) *Replenishment from mainland.* A dealer or recapper who wishes to replenish his stock of tires, tubes or camelback from a mainland supplier, shall submit together with his purchase order, sufficient evidence calling for the number and type of tires and tubes, or the amount and type (based on the tables in section 6.4 (d)) of camelback which he seeks to replenish. Upon determining that the applicant has requested no more tires, tubes or camelback than his evidences entitle him to, the Director shall issue his certificate on OPA Form R-2 (Revised) authorizing transfer by the mainland supplier of the tires, tubes or camelback so ordered.

(c) *Additional allotments.* A dealer or recapper who requires more tires, tubes or camelback than all evidences in his possession would entitle him to, shall submit, together with his purchase order, all evidences in his possession which call for the type and grade of tires, tubes or camelback of which he seeks an additional allotment. The Director may issue his certificate on OPA Form No. R-2 (Revised) authorizing the transfer by a mainland supplier, if he is satisfied that the additional allotment requested is necessary to enable the applicant to satisfy expected demands from consumers; that it is not excessive; and that an oversupply of the size or type requested will not result thereby.

SEC. 6.6 *Acquisition for retransfer purposes*—(a) *Persons who may acquire.* Subject to the provisions of paragraph (b), tires, tubes or camelback may be acquired, without certificate, in the following cases:

(1) *Exercise of governmental rights or powers.* Any government or governmental agency may acquire from any person any tire, tube or camelback in the exercise of governmental rights or powers.

(2) *Decedent's estates.* An executor or administrator, legatee or distributee may acquire any tire, tube or camelback pursuant to the appropriate laws of distribution.

(3) *Judicial process.* A person may acquire any tire, tube or camelback pursuant to judicial process or under the supervision of a court of competent jurisdiction.

(4) *Salvage.* A person who is engaged primarily in the business of adjusting losses, or reconditioning and selling damaged commodities, and who takes possession of such commodities on the occurrence or imminence of casualties or in direct connection with the adjustment of losses resulting from such casualties, may acquire any tire, tube or camelback that has been damaged or that is in imminent danger of being damaged or destroyed.

(5) *Subrogation upon payment of claim.* A common or contract carrier or any person duly authorized by law to engage in the insurance business may acquire any tire, tube or camelback in consequence of the right of subrogation or in consequence of the payment of a claim.

(6) *Security transfers.* Any person duly licensed to engage in the business of making loans upon collateral and regulated in conducting such business by the Territory or the United States may acquire tires, tubes or camelback for security purposes, and may transfer such tires, tubes or camelback to the debtor upon release or extinguishment of the debt so secured. Any person may acquire a lien created by operation of law on tires, tubes or camelback and may satisfy or release such lien. Such security interest or liens may be enforced in the manner provided by the applicable Territorial or Federal law and, subject to the provisions of this Section, transfers necessary to such enforcement may be made.

(b) *Required re-transfers.* A person other than a dealer acquiring full title to tires, tubes or camelback under paragraph (a) shall, within thirty days, sell the tires, tubes or camelback to a dealer or shall make such other disposition as the District Manager may direct.

SEC. 6.7 *Transfers without certificate, special authorization or notice*—(a) *Transfers to governmental corporations.* A person may transfer tires, tubes or camelback to the Defense Supplies Corporation, Rubber Reserve Company or Reconstruction Finance Corporation or to any representative designated to receive tires, tubes or camelback on their behalf.

(b) *Changes in location.* A person, other than a dealer, may change the location of unmounted tires, tubes or camelback if no change in ownership, possession or control results.

(c) *Transfer on vehicles.* A person may transfer a tire or tube mounted on a vehicle provided that the transfer is not prohibited by any order or regulation of the Office of Price Administration or of the War Production Board.

(d) *Transfers for repair, mounting or inspection.* A person may temporarily transfer tires or tubes to any person engaged in the business of repairing tires or tubes, for purposes of inspection, mounting or repair only, and may acquire such tires or tubes after the mounting, repair or inspection.

(e) *Exchange of tires or tubes.* A consumer who in exchange for a certificate acquires any tire or tube that is of a size or grade different from that ordered may, within ten days after its acquisition, exchange it with the transferor for the size or grade ordered, if the tire or tube has not yet been used by the consumer.

(f) *Turn-in of tires or tubes to be replaced.* A consumer who holds a certificate for a tire or tube, and who is required to turn in the replaced tire or tube shall transfer it to a dealer. A dealer receiving a tire (usable or scrap) under this paragraph must attach a tag to it on which appears the serial number of the tire, the date upon which it was turned in, the name of the certificate holder who turned it in, and the serial number of the certificate. The dealer must hold the tire for at least 30 days unless instructed to hold it for a longer or shorter period by a representative of the Office of Price Administration. All tires held by a dealer under this paragraph must be segregated from any other tires and tubes and kept readily available for inspection.

(g) *Transfers for recapping.* (1) A consumer may transfer a tire for recapping service to a dealer.

(2) A dealer may transfer a recappable carcass to a recapper if accompanied by Part B of a certificate authorizing recapping services, and the recapper may transfer a used or recapped tire in exchange for such Part B.

(h) *Transfer of unit for unit.* A dealer may transfer tires, tubes or camelback to another dealer in exchange for tires, tubes or camelback in the same amount, type and grade.

(i) *Transfers to and from carriers.* A person may transfer tires, tubes or camelback to a common or contract carrier for shipment, and such tires, tubes or camelback may be transferred by such carrier to the consignee in the regular course of business. The transaction between the consignee and the consignor shall remain subject to provisions of this Ration Order.

(j) *Mounting of original equipment.* A manufacturer of vehicles may mount tires and tubes as original equipment upon a vehicle made by him unless he has been prohibited from doing so by general or special instructions of the War Production Board.

SEC. 6.8 *Transfers to exempted agencies and persons*—(a) *Transfers to governmental agencies.* A person may transfer tires, tubes or camelback to or for the account of the Army, Navy, Marine Corps, or Coast Guard of the United States, the United States Maritime Commission, the Coast and Geodetic Survey, the Civil Aeronautics Authority, and the National Advisory Commission for Aeronautics, but not to or for the account of any officer, member or employee of any of the foregoing for use on a privately owned vehicle, regardless of the extent to which the vehicle is used on official business, nor to or for the account of any post exchange, ship's service store, commissary or similar agency or organization.

(b) *Transfer to manufacturer of vehicles.* No person may transfer tires or tubes to any manufacturer of vehicles for mounting as original equipment, except upon the written approval of the War Production Board.

(c) *Records of transfers to exempted agencies and persons.* A person who makes a transfer permitted under paragraph (a) or (b) shall:

(1) Establish and maintain at his principal business office in the Territory, a separate file containing every invoice for shipment of tires, tubes or camelback to such transferee, which shall be filed within ten days after the date of shipment covered thereby. The invoice shall show the date of the transfer, the name and address of the purchaser, the name of the consignee (if different from the purchaser); the name of the carrier and the point to which the shipment was made.

(2) Keep records showing proof of delivery and receipt of payment.

SEC. 6.9 *Other prohibited acts.* (a) No person shall, without lawful authority,

abuse, alter, damage or neglect any tire, tube or camelback in his possession or control. Failure to make timely application for recapping or replacement shall constitute one form of abuse within the meaning of this paragraph.

(b) No person shall use or permit the use of tires or tubes in the operation of a motor vehicle at any rate of speed which is in excess of 35 miles per hour. This restriction shall not apply to the operation of a motor vehicle by the Army, Navy, Marine Corps or Coast Guard, or to meet an emergency involving serious threat to life, health or safety.

(c) In addition to the prohibitions contained above in paragraphs (a) and (b), there are other acts prohibited by General Ration Order No. 8 which are applicable to all ration orders. This order prohibits and provides penalties for:

(1) Making false or misleading statements in a ration document or to the Office of Price Administration;

(2) Altering, mutilating or destroying a ration document;

(3) Forging or counterfeiting a ration document;

(4) Acquiring, using, transferring or possessing a forged, counterfeited, altered, defaced or mutilated ration document;

(5) Wrongfully withholding a ration document;

(6) Transferring a rationed commodity in exchange for an invalid or improperly acquired ration document;

(7) Transferring a rationed commodity at an illegal price;

(8) Bribing, hindering or interfering with rationing officials;

(9) Attempting to do any act in violation of a Ration Order, directly or indirectly, or to aid or encourage another to do so.

Article VII—Reports and Records

SEC. 7.1 *Posting names of successful applicants.* At intervals of not more than one week, a list of the names of the recipients of certificates issued during the previous week for Grade I tires or tubes shall be posted at the office of the Board for public inspection and shall be released to the press. This requirement shall not apply to certificates issued to Army, Navy or government intelligence officers whose work requires secrecy.

SEC. 7.2 *Disposition of parts of certificates.* (a) A transferor of tires, tubes or camelback to whom a certificate is surrendered by an applicant shall complete all the parts thereof and dispose of them in accordance with the instructions on the form, except that Parts C of OPA Form R-2 on Oahu, Molokai and Lanai shall be returned to the Director. Parts B of certificates may be used for replenishment only as provided in sections 6.4 and 6.5.

(b) Dealers and recappers shall maintain a file of all certificates or parts thereof which they are required to keep as records.

SEC. 7.3 *Records and reports of transfer—(a) Records of transfers to and from dealers.* Every dealer shall keep true, accurate and complete records of all transfers of tires, tubes, or camelback to or by him. The records shall show the sale price, date of transfer, the name of the transferee and:

(1) If tires are transferred, their number, size, type and grade (and type of camelback used if it is a recapped tire);

(2) If tubes are transferred, their number, type and size;

(3) If camelback is transferred, the amount, type and grade thereof; or

(4) If tires or tubes are transferred for repair, information sufficient to identify the ownership of the tires or tubes.

(b) *Record of transfers upon authorization.* Any person who acquires or transfers tires, tubes, camelback, or replenishment portions of certificate pursuant to an authorization issued by the Director shall retain the authorization as part of his record.

(c) *Temporary transfers.* Every person transferring tires or tubes temporarily pursuant to section 6.2 (c) shall keep a record showing:

(1) The purpose for which the transfer is made;

(2) The serial number of the tires transferred and the tires temporarily replaced, if any;

(3) The date the tire or tube was transferred;

(4) The name and address of the persons to whom it was transferred; and

(5) The date it was returned.

SEC. 7.4 *Inventories of tires, tubes and camelback.* Every person (except a manufacturer of vehicles) who is engaged in the business of selling tires, tubes, camelback or vehicles and every person extending credit to another on the security of a vehicle under an agreement permitting the lender to take possession of the vehicle, shall:

(a) At the close of business on the last day of the month take an inventory of all unmounted tires and tubes and of all camelback in his possession or control and keep a record thereof. The inventories shall be based on a physical count.

(b) File a report on OPA Form TH R-17, in accordance with the instructions thereon.

(c) Each recapper shall keep a record of his total production of recapped tires and the amount of camelback used in recapping tires during the preceding month. The record shall also indicate the number of tires recapped which were owned by the recapper, and the amount of camelback used in recapping such tires.

SEC. 7.5 *Preservation and filing of records.* Any person affected by this Order shall keep and file such additional records and reports as the Office of Price Administration may require. Any record required to be kept by this Order shall be preserved for not less than two years, except that records of transfers for repair need be preserved only while the tires or tubes are being repaired. All records relating to tires, tubes or camelback shall be available at all times for inspection by the Office of Price Administration.

SEC. 7.6 *Notice of legal proceedings.* Every person holding a certificate, part of a certificate or authorization shall, immediately upon a commencement of any legal action or proceeding involving the certificate or authorization, notify the Director.

SEC. 7.7 *Reports of violations—(a) By any person.* Any person may report a violation of this order to a Board or to the Office of Price Administration, Honolulu, T. H., or any of its District Offices. An official or employee of the office to which the report is made shall fill out a complaint, secure the signature of the complainant, if possible, and transmit it for investigation and action in accordance with the instructions of the Office of Price Administration.

(b) *By a Board.* Whenever a Board finds that an applicant has made a false statement in any application, record or other document made pursuant to or required by the terms of this order, it shall immediately inform the Director of that fact in writing, transmitting all relevant documents with its report.

Article VIII—General Provisions

SEC. 8.1 *Appeals.* Any person whose application for a certificate or authorization has been denied in whole or in part by the action of a Board or the Director under this order, may appeal from such action or from any other adverse decision of a Board. Except for proceedings arising out of section 5.11, an appeal shall be taken only in accordance with the provisions of Procedural Regulation No. 9, issued by the Office of Price Administration.

Effective date. This order shall become effective September 1, 1943.

Issued this 31st day of August 1943.

MELVIN C. ROBBINS,
Director of the Office of Price Administration for the Territory of Hawaii.

Approved:

WALLACE M. COHEN,
Acting Region Administrator, Region IX.

[F. R. Doc. 43-14712; Filed, September 8, 1943; 11:45 a. m.]

PART 1499—COMMODITIES AND SERVICES

[Order 397 Under 3 (b) of GMPR, Amdt. 3]

STANDARD BRANDS, INC.

Maximum prices authorized under § 1499.3 (b) of the General Maximum Price Regulation, Amendment No. 3 to Order No. 397.

For the reasons set forth in an opinion issued simultaneously herewith, § 1499.1884 (a) is amended by changing the figure "7.17" to "7.11."

This amendment shall become effective September 9, 1943.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 8th day of September 1943.

CHESTER BOWLES,
Acting Administrator.

[F. R. Doc. 43-14711; Filed, September 8, 1943; 11:46 a. m.]

PART 1351—FOOD AND FOOD PRODUCTS

[Rev. MPR 279,[1] Amdt. 1]

HOPS

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Revised Maximum Price Regulation No. 279 is amended in the following respects:

1. Section 1 is amended to read as follows:

SECTION 1. *Purpose of the regulation.* The purpose of this regulation is to establish maximum prices for sales of all varieties of Pacific Coast hops and sales of the 1943 crop of New York State hops. This regulation does not apply to sales of hop oils, hop concentrates and other hop derivatives. The maximum prices for sales of those commodities are governed by the General Maximum Price Regulation. Sales of lupulin, as well as sales of New York State hops prior to the 1943 crop, remain exempt from price control. Sales of packaged hops by sellers at retail, other than packers, are exempted from the provisions of this regulation.

2. Section 3 is amended by adding paragraph (d) as follows:

(d) *Maximum prices for New York State baled hops of the 1943 crop*—(1) *Growers' maximum prices.* The grower's maximum prices for New York State baled hops of the 1943 crop, f. o. b. grower's farm, warehouse or place of business, shall be as follows:

	Per pound
Seedless hops (not more than 3% of seeds by weight)	$1.05
Semi-seedless hops (more than 3% of seeds by weight but not more than 6% of seeds by weight)	1.00
Seeded hops (more than 6% of seeds by weight)	.95

(2) *Dealers' maximum prices.* The dealer's maximum prices for sales of New York State baled hops of the 1943 crop, f. o. b. New York State shipping point, shall be the grower's maximum price in accordance with paragraph (1) for the particular quantity of hops to be priced hereunder, plus the amount of 9 cents per pound.

(3) *Brewers supply dealers' and brewers' maximum prices.* The brewers supply dealer's and brewer's maximum prices for sales of New York State baled hops of the 1943 crop shall be determined in the manner prescribed under section 3 (c) (3) and (4) with respect to Pacific Coast baled hops of the 1943 crop, for sales by such classes of sellers.

3. Section 4 is amended to read as follows:

SEC. 4. *Maximum prices for packaged hops.* The seller's (other than sellers at retail who are not packers) maximum prices for sales of Pacific Coast packaged hops (except such hops of the 1942 crop), and New York State hops of the 1943 crop, f. o. b. packing plant or seller's place of business, shall be the dealer's maximum price in accordance with the applicable provisions of Section 3 for the particular crop year and type of hops to be priced hereunder, plus the amount of 8 cents per pound and the applicable amount of transportation charges paid by the seller with respect to the particular quantity of hops to be priced hereunder.

4. Section 7 (a) is amended to read as follows:

(a) Sales of New York State hops prior to the 1943 crop.

This amendment shall become effective September 6, 1943.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4651)

Issued this 6th day of September 1943.

CHESTER BOWLES,
Acting Administrator.

Approved September 4, 1943.

MARVIN JONES,
War Food Administrator.

[F. R. Doc. 43-14600; Filed, September 6, 1943; 4:47 p. m.]

PART 1351—FOOD AND FOOD PRODUCTS

[MPR 422,[1] Amdt. 3]

CEILING PRICES OF CERTAIN FOODS SOLD AT RETAIL IN GROUP 3 AND GROUP 4 STORES

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Maximum Price Regulation 422 is amended in the following respects:

1. In section 39 (a), two new items are added to Table B under list (2) to read as follows:

TABLE B.—MARK-UPS OVER "NET COST" ALLOWED TO GROUP 3 AND GROUP 4 RETAILERS FOR PERISHABLES COVERED BY THIS REGULATION BY COMMODITIES

Food commodities	Allowed mark-ups over net cost		"Selling Unit" in which ceiling price must be calculated
	Group 3. Retailer other than independent with annual volume under $250,000	Group 4. Any retailer with annual volume of $250,000 or more	
(2) Fresh fruits and vegetables:			
Apples	*Percent* 33	*Percent* 33	2 pounds.
Grapes	40	40	1 pound.

2. In section 39 (b) (2), two new undesignated paragraphs are added to read as follows:

"Apples" means all varieties of fresh apples including, but not limited to, Baldwin, Delicious, Grimes Golden, Winesap, Northern Spy, York Imperial, McIntosh, and Rome Beauty. Each variety shall be considered a separate item and priced separately.

"Grapes" means all varieties of fresh grapes including, but not limited to, Alicante, Almeria, Concord, Emperor, Red Malaga, White Malaga, Ribier, Thompson Seedless, Tokay, and Zinfandel. Each variety shall be considered a separate item and priced separately.

This amendment shall become effective September 16, 1943.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4651)

Issued this 6th day of September 1943.

CHESTER BOWLES,
Acting Administrator.

Approved:

MARVIN JONES,
War Food Administrator.

[F. R. Doc. 43-14601; Filed, September 6, 1943; 4:48 p. m.]

PART 1351—FOOD AND FOOD PRODUCTS

[MPR 423,[1] Amdt. 3]

CEILING PRICES OF CERTAIN FOODS SOLD AT RETAIL IN GROUP 1 AND GROUP 2 STORES

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Maximum Price Regulation 423 is amended in the following respects:

1. In section 28 (a), two new items are added to Table B under list (2) to read as follows:

TABLE B.—MARK-UPS OVER "NET COST" ALLOWED TO GROUP 1 AND GROUP 2 RETAILERS FOR PERISHABLES COVERED BY THIS REGULATION BY COMMODITIES

Food commodities	Allowed mark-ups over "net cost"		"Selling unit" in which ceiling price must be calculated
	Independent retailers with annual volumes		
	Group 1—under $50,000	Group 2—$50,000 but less than $250,000	
(2) Fresh fruits and vegetables:			
Apples	*Percent* 33	*Percent* 33	2 pounds.
Grapes	40	40	1 pound.

2. In section 28 (b) (2), two new undesignated paragraphs are added to read as follows:

"Apples" means all varieties of fresh apples including, but not limited to, Baldwin, delicious, Grimes golden, Winesap, northern spy, York imperial, McIntosh, and Rome beauty. Each variety shall be considered a separate item and priced separately.

"Grapes" means all varieties of fresh grapes including, but not limited to,

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*Copies may be obtained from the Office of Price Administration.

[1] 8 F.R. 11586.

[1] 8 F.R. 9395, 10569, 10987.

[1] 8 F.R. 9407, 10570, 10933.

Alicante, Almeria, Concord, Emperor, Red Malaga, White Malaga, Ribier, Thompson seedless, Tokay, and Zinfandel. Each variety shall be considered a separate item and priced separately.

This amendment shall become effective September 16, 1943.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 6th day of September 1943.

CHESTER BOWLES,
Acting Administrator.

Approved:

MARVIN JONES,
War Food Administrator.

[F. R. Doc. 43-14602; Filed, September 6, 1943; 4:47 p. m.]

PART 1407—RATIONING OF FOOD AND FOOD PRODUCTS

[RO 16,[1] Amdt. 15 to Supplement 1]

MEAT, FATS, FISH AND CHEESES

The point values of "Tongue—lamb, pork or veal", and of "Potted and deviled meats" under the listing "Meats in tin or glass containers" on the Official Table of Trade Point Values for Meat, Fats, Fish, and Dairy Products (No. 6), referred to in paragraph (a) of § 1407.3027, are amended to read as follows:

	Points per pound
Meat in tin or glass containers:	
Potted and deviled meats	5.0
Tongue—lamb, pork, or veal	7.0

This amendment shall become effective at 12:01 a. m., September 6, 1943.

(Pub. Law 671, 76th Cong., as amended by Pub. Laws 89, 421, 507 and 729, 77th Cong.; E.O. 9125, 7 F.R. 2719; E.O. 9280, 7 F.R. 10179; WPB Directive 1, 7 F.R. 562; and Supp. Dir. I-M, 7 F.R. 8234; Food Directive 1, 8 F.R. 327; Food Dir. 3, 8 F.R. 2005; Food Dir. 5, 8 F.R. 2251; Food Dir. 6, 8 F.R. 3471; Food Dir. 7, 8 F.R. 3471)

Issued this 6th day of September 1943.

GEORGE J. BURKE,
Acting Administrator.

[F. R. Doc. 43-14610; Filed, September 6, 1943; 4:48 p. m.]

PART 1449—CHARCOAL

[MPR 431,[2] Amdt. 2]

DELTA CHEMICAL AND IRON CO.

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

A new paragraph (c) is added to Appendix A to read as follows:

(c) *Sales by Delta Chemical and Iron Company.* Notwithstanding any other provision of this regulation, the maximum prices for sales of charcoal made from mixed hardwoods by Delta Chemical and Iron Company, Wells, Michigan, f. o. b. plant, shall be:

	Per ton
Lump charcoal in bulk	$40.00
Charcoal screenings	30.00

This amendment shall become effective September 6, 1943.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 6th day of September 1943.

GEORGE J. BURKE,
Acting Administrator.

[F. R. Doc. 43-14606; Filed, September 6, 1943; 4:48 p. m.]

PART 1315—RUBBER AND PRODUCTS AND MATERIALS OF WHICH RUBBER IS A COMPONENT

[MPR 435,[1] Amdt. 1]

NEW BICYCLE TIRES AND TUBES

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Maximum Price Regulation 435 is amended in the following respects:

1. Appendix A, paragraph (b) (2) (iv) is amended by substituting therein "26 x 2.125" for "26 x 2.175".

2. Appendix A, Table I-A is amended by substituting $2.52 for $2.86 as the price listed for the Pennsylvania Lightweight brand of Pennsylvania Rubber Company in the column for sizes 26 x 1.375 and 26 x 1.25-1.375.

3. Appendix A, Table II-A is amended by amending the item in the table listed under Pennsylvania Rubber Co., Inc. to read as set forth below under the column headings of the table:

Manufacturer and brand	Sizes				
	20 x 2.125	24 x 2.125	26 x 1.25, 26 x 1.375 and 26 x 1.25-1.375	26 x 2.125	All other sizes
Pennsylvania Rubber Co., Inc.: Pennsylvania	-----	$1.25	$1.25	$1.23	-----

4. Appendix C, Table I-C is amended by inserting $3.26 as the listed price for the Mansfield Lightweight D. T. brand of The Mansfield Tire and Rubber Company in the column for size 26 x 1.25.

5. Appendix C, Table II-C is amended by amending the items in the table listed under Pennsylvania Rubber Co., Inc., and Western Auto Supply Co. (Los Angeles) to read as set forth below under the column headings of the table:

Brand owner and brand	Sizes				
	20 x 2.125	24 x 2.125	26 x 1.25, 26 x 1.375 and 26 x 1.25-1.375	26 x 2.125	All other sizes
Pennsylvania Rubber Co., Inc.: Pennsylvania	-----	$1.66	$1.66	$1.70	-----
Western Auto Supply Co. (Los Angeles):					
Blue Ribbon	-----	1.18	-------	1.20	-----
Jumbo	-----	-----	-------	1.42	-----

6. Appendix D, Table II-D is amended by amending the item in the table listed under Pennsylvania Rubber Co., Inc., to read as set forth below under the column headings of the table:

Brand owner and brand	Sizes				
	20 x 2.125	24 x 2.125	26 x 1.25, 26 x 1.375 and 26 x 1.25-1.375	26 x 2.125	All other sizes
Pennsylvania Rubber Co., Inc., Pennsylvania	-----	$1.25	$1.25	$1.25	-----

This amendment shall become effective September 13, 1943.

(Pub. Laws 421 and 729, 77th Cong.; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 7th day of September 1943.

CHESTER BOWLES,
Acting Administrator.

[F. R. Doc. 43-14666; Filed, September 8, 1943; 9:26 a. m.]

PART 1340—FUEL

[RPS 88,[1] Amdt. 127]

PETROLEUM AND PETROLEUM PRODUCTS

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Revised Price Schedule No. 88 is amended in the following respects:

1. The second undesignated paragraph of § 1340.159 Appendix A is revoked.

2. Section 1340.159 (c) (3) (xxxi) is added to read as follows:

(xxxi) In the State of Oklahoma the maximum prices of gas oil, f. o. b. refineries, loaded into tank cars or motor transports, shall be as follows:

	Cents per gallon
Ordinary gas oil:	
32-36 gravity	3.0
Zero gas oil:	
32-36 gravity	3.375

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*Copies may be obtained from the Office of Price Administration.

[1] 8 F.R. 3591, 3714, 4892, 5408, 5758, 6840, 7264, 7456, 7492, 8869, 9203, 10090, 10728, 11688.

[2] 8 F.R. 9628, 11444.

[1] 8 F.R. 10419.

[1] 8 F.R. 3718, 3795, 3845, 4130, 4131, 3841, 4252, 4334, 4783, 4918, 4840, 5386, 6044, 6120, 6543, 6617, 6673, 6849, 6617, 7199, 7351, 7382, 7489, 7264, 8184, 8377, 8755, 8874, 9331.

3. Section 1340.159 (c) (3) (xxxii) is added to read as follows:

(xxxii) *North Texas.* The maximum price of 41–43 water white kerosene f. o. b. refineries in North Texas, loaded into tank cars or motor transports for shipment to Texas and New Mexico destinations, shall be 4¢ per gallon.

4. Section 1340.159 (b) (1) is amended to read as follows:

(1) A seller's maximum price for a petroleum product of a particular grade shall be the lowest quoted price published in the October 8, 1941 issue of the National Petroleum News for a product of the same grade. Where such products are sold and prices are quoted on a delivered basis then the maximum delivered price shall be the lowest quoted delivered price so published. Where products are sold and prices are quoted on an f. o. b. shipping point basis, then the maximum f. o. b. price shall be the lowest quoted f. o. b. price so published. Quotations in the above named periodical for 80, 72–74, and 68–70 octane motor gasoline; for kerosene and/or No. 1 fuel, No. 2, No. 3, No. 5 and No. 6 fuel oil, as set forth on Page 42 of such publication under the heading "Atlantic Coast", except when prices quoted are specifically designated as barge prices, shall be used only in determining a seller's maximum price for such products loaded into motor transports and tank cars.

Quotations in the above named periodical for the States of California, Oregon, Washington, Arizona and Nevada shall not be used in determining maximum prices.

If a seller's maximum price for fuel oil or gasoline is established by this paragraph and if on his last sale of either of such products to a purchaser of a particular class during the 60 days prior to October 15, 1941 the seller granted a discount or discounts and the discount or discounts were stated as such in the contract of sale, or on the invoice to the purchaser, then discounts no less favorable shall be granted by the seller to all purchasers of the same class in connection with sales of the product on which the discount was granted. Deliveries pursuant to contracts of sale entered into more than 60 days prior to October 15, 1941, shall not be considered as sales for the purpose of determining discounts hereunder.

This amendment shall become effective September 13, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 7th day of September 1943.

CHESTER BOWLES,
Acting Administrator.

[F. R. Doc. 43–14667; Filed, September 8, 1943; 9:25 a. m.]

PART 1381—SOFTWOOD LUMBER

[Rev. RMPR 219,[1] Amdt. 3]

NORTHEASTERN SOFTWOOD LUMBER

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Section 8 is amended by adding a new paragraph as follows:

On and after September 13, 1943, the maximum prices f. o. b. mill and the maximum base prices set forth in Article V—Appendix A: Square-Edge White Pine Lumber; Article VI—Appendix B: Round-Edge White Pine Lumber; Article VII—Appendix C: Eastern Spruce, Norway Pine and Jack Pine Lumber, Eastern Spruce Lath; and White Cedar Shingles; Article VIII—Appendix D: New England and Imported Eastern Hemlock Lumber; and Article IX—Appendix E: Eastern Hemlock Lumber produced in New York and Pennsylvania are amended as follows:

1. $4.00 per 1000 feet board measure is added to the prices shown for all sizes and lengths of lumber in Tables 1, 2, 15, 16, 17, 19, 20, and 21.
2. $1.50 per 1000 feet board measure is added to the prices shown for all sizes and lengths of lumber in Table 4.
3. $3.00 per 1000 feet board measure is added to the prices shown for all sizes and lengths of lumber in Tables 5, 6, 7, 8, 9, and 10.
4. $1.00 per 1000 pieces of lath is added to the prices shown for all items in Table 11.
5. $1.00 per square of shingles is added to the prices shown for all items in Table 12.

No increases are to be made in the additions for kiln-drying, millworking, anti-stain treatment, or other differentials or additions to basic mill prices authorized by footnotes or otherwise. The maximum prices for all items in Revised Maximum Price Regulation 219[1] not specifically referred to in section 8, as amended, remain unchanged.

This amendment shall become effective September 13, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 7th day of September 1943.

CHESTER BOWLES,
Acting Administrator.

[F. R. Doc. 43–14670; Filed, September 8, 1943; 9:26 a. m.]

PART 1448—EATING AND DRINKING ESTABLISHMENTS

[Restaurant MPR 2–1, Amdt. 1]

FOOD AND DRINK SOLD FOR IMMEDIATE CONSUMPTION IN NEW YORK REGION

For the reasons set forth in the statement of considerations issued simultaneously herewith, Restaurant Maximum Price Regulation No. 2–1 is hereby amended by the addition of the following sub-paragraph to section 18.

SEC. 18. * * *

(d) Bona fide private clubs which file with the appropriate OPA District Office a statement setting forth that:

(1) The club is a non-profit organization and is recognized as such by the Bureau of Internal Revenue;

(2) It sells food items and meals only to members and bona fide guests of members;

(3) Its members pay dues of more than a merely nominal amount (the amount of dues paid by each class of members and the period covered by such dues should be indicated) and are elected to membership by a governing board, membership committee or other body; and

(4) It is otherwise operated as a club.

Five days after filing such information, or earlier if so notified by the District Director, a private club may consider itself exempt unless and until it is otherwise notified by the District Director.

Any club which, subsequent to such filing, changes its operations with respect to any of the requirements stated above shall immediately notify its OPA District Office accordingly. Any club which sells food items or meals to persons other than members and bona fide guests of members is subject to this regulation with respect to all sales.

This amendment No. 1 to Restaurant Maximum Price Regulation No. 2–1 shall become effective August 31, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

NOTE: The reporting requirements of this amendment have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Issued this 26th day of August 1943.

SYLVAN L. JOSEPH,
Regional Administrator.

[F. R. Doc. 43–14672; Filed, September 8, 1943; 9:27 a. m.]

PART 1351—FOOD AND FOOD PRODUCTS

[Rev. MPR 335,[2] Amdt. 3]

PEANUTS AND PEANUT BUTTER

A statement of the considerations involved in the issuance of this amendment has been issued and filed with the Division of the Federal Register.*

Revised Maximum Price Regulation No. 335 is revised in the following respects:

Section 7 is amended by deleting the first paragraph of "Examples" and by adding a new Exception (d), as follows:

(d) Sales by the Commodity Credit Corporation of farmers' stock peanuts of the 1943 crop.

This amendment shall become effective September 7, 1943.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 7th day of September 1943.

CHESTER BOWLES,
Acting Administrator.

[F. R. Doc. 43–14663; Filed, September 8, 1943; 9:27 a. m.]

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[1] 8 F.R. 4948, 6620, 9779.

*Copies may be obtained from the Office of Price Administration.

[2] 8 F.R. 2502, 3705, 6334, 10264, 10937.

PART 1364—FRESH, CURED AND CANNED MEAT AND FISH PRODUCTS

[MPR 364, Amdt. 3,[1] Correction]

FROZEN FISH AND SEAFOOD

In Amendment No. 3 to Maximum Price Regulation No. 364, the designation "Section 20" appearing in items 1, 2, 3 and 4 is corrected to read "Section 14".

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 7th day of September 1943.

CHESTER BOWLES,
Acting Administrator.

[F. R. Doc. 43-14669; Filed, September 8, 1943; 9:27 a. m.]

PART 1407—RATIONING OF FOOD AND FOOD PRODUCTS

[RO 13,[2] Amdt. 68]

PROCESSED FOODS

A rationale for this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.*

The following item is added to the list in Appendix A:

Raisins packaged in machine made cardboard cartons and weighing less than two ounces.

This amendment shall become effective 12: 01 a. m. September 8, 1943.

(Pub. Law 671, 76th Cong., as amended by Pub. Laws 89, 421, 507 and 729, 77th Cong.; E.O. 9125, 7 F.R. 2719; E.O. 9280, 7 F.R. 10179; WPB Directive 1, 7 F.R. 562; Food Directive 3, 8 F.R. 2005, and Food Directive 5, 8 F.R. 2251)

Issued this 7th day of September 1943.

CHESTER BOWLES,
Acting Administrator.

[F. R. Doc. 43-14671; Filed, September 8, 1943; 9:27 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, War Department

PART 207—NAVIGATION REGULATIONS

GULF OF MEXICO FROM ST. MARKS, FLA., TO RIO GRANDE

Pursuant to the provisions of section 7 of the River and Harbor Act of 8 August 1917 (40 Stat. 266; 33 U.S.C. 1), paragraph (e) (4) of § 207.180 is amended to read as follows:

§ 207.180 *All waterways tributary to the Gulf of Mexico (except the Mississippi River and its tributaries) from St. Marks, Fla., to the Rio Grande; use, administration, and navigation.* * * *

(e) *Waterways.* * * *

(4) *Size, assembly, and handling of tows.* * * *

All vessels drawing tows not equipped with rudders shall use two tow lines and shorten them to the greatest possible extent so as to have full control at all times. The various parts of a tow shall be securely assembled with the individual units connected by lines as short as practicable. If necessary, as in the case of lengthy or cumbersome tows or tows in restricted channels, the District Engineer may require that tows be broken up and may require the installation of a rudder, drag or other approved steering device on the tow in order to avoid obstructing navigation or damaging the property of others, including aids to navigation maintained by the United States or under its authorization, by collision or otherwise. * * *

(Sec. 7, River and Harbor Act of 8 August 1917, 40 Stat. 266; 33 U.S.C. 1) [Regs. 20 April 1938 (E.D. 7241 (Mexico, Gulf of—Tributaries) 3/1) as amended by Regs. 28 August 1943 (CE 800.211 (Mexico, Gulf of—Tributaries) SPEKH)]

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[SEAL] H. B. LEWIS,
Brigadier General,
Acting The Adjutant General.

[F. R. Doc. 43-14662; Filed, September 7, 1943; 4:32 p. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans' Administration

PART 10—INSURANCE

PAYMENT AND LAPSE OF PREMIUMS

§ 10.3016 *Payment of premiums—Insured in the active military, naval, or Coast Guard service.* Premiums on United States Government life insurance may be paid by persons in the active military, naval, or Coast Guard service (a) by direct remittance to the Veterans' Administration, or (b) by allotment of service pay. (July 1, 1942) [43 Stat. 608; 38 U.S.C. 426]

LAPSE

§ 10.3072 *Nonlapse while insured is in active military, naval or Coast Guard service.* Except as provided in § 10.3073, United States Government life insurance will not lapse while the insured is in the active military, naval, or Coast Guard service of the United States, if an allotment of active service pay had been established to cover premiums for such insurance. (July 1, 1942) [43 Stat. 608; 38 U.S.C. 426]

§ 10.3073 *Lapse while insured is in active military, naval or Coast Guard service.* United States Government life insurance will lapse and terminate while the insured is in the active military, naval, or Coast Guard service of the United States:

(a) If the insured fails to designate a method of payment of premiums at the time of applying, or at any time elects to pay premiums on said insurance otherwise than by allotment of pay and such premiums are not paid prior to expiration of the grace period.

(b) If the service department shall discontinue the allotment and premium is not otherwise paid prior to expiration of the grace period. (July 1, 1942) [4 Stat. 608; 38 U.S.C. 426]

§ 10.3074 *Lapse at discharge or resignation from active service.* When the insured under a United States Government life insurance policy shall provide for payment of premiums by allotment of pay any previously authorized method of payment of premiums shall be deemed to be revoked. The insurance will lapse upon termination of the allotment because of discharge or resignation from the active service unless the premium be paid prior to expiration of the grace period. (July 1, 1942) [43 Stat. 608; 38 U.S.C. 426]

[SEAL] FRANK T. HINES,
Administrator.

[F. R. Doc. 43-14663; Filed, September 7, 1943; 4:30 p. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—General Land Office

[Circular No. 1563]

PART 75—SALES AND LEASES

CERTAIN LANDS IN THE MATANUSKA VALLEY OF ALASKA

Sec.
75.1 Statutory authority.
75.2 Policy.
75.3 Preference right to Alaska Rural Rehabilitation Corporation.
75.4 Persons entitled to make application.
75.5 Authorization for sale.
75.6 Sale price and lease rental.
75.7 Evidence of citizenship required.
75.8 Action by Alaska Rural Rehabilitation Corporation.
75.9 Action by district land office.
75.10 Action by General Land Office.
75.11 Causes for cancellation.
75.12 Payment of annual rental on lease.
75.13 Patent and lease reservations.
75.14 Appeals.

AUTHORITY: §§ 75.1 to 75.14, inclusive, issued under 54 Stat. 1191; 48 U.S.C. 353 note.

§ 75.1 *Statutory authority.* The Act of October 17, 1940 (54 Stat. 1191; 48 U.S.C. 353 note) authorizes the Secretary of the Interior, in his discretion, to lease, or to sell at not less than $1.25 per acre, under such rules and regulations and upon such terms and conditions as he may prescribe, subject to valid existing rights certain lands released from reservation for the support of common schools and the public lands in the Territory of Alaska in the area described as follows:

SEWARD MERIDIAN

Tps. 17 and 18 N., Rs. 1 and 2 E., Secs. 16 and 36 and the public lands in the townships.
T. 17 N., R. 1 W.,
Secs. 25, 26, 27, 31, 32, 33, 34, and 35.

*Copies may be obtained from the Office of Price Administration.

[1] 8 F.R. 11175, 12023.

[2] 8 F.R. 11048, 11383, 11483, 11563, 11513, 11753, 11812, 12026.

T. 16 N., R. 1 W.,
Secs. 3, 4, 5, 6, and 7.
T. 16 N., R. 2 W.,
Secs. 1, 2, 11, and 12.

All the public lands in the areas described above are situated within the boundaries of the Matanuska Valley Colonization Project administered by the Alaska Rural Rehabilitation Corporation and, except for the school lands released from reservation for the Territory as described in the following paragraph, were withdrawn by Executive Order No. 6957 of February 4, 1935, and Executive Order No. 7128 of August 6, 1935, under authority of the Act of June 25, 1910 (36 Stat. 847), as amended by the Act of August 24, 1912 (37 Stat. 497; 16 U.S.C., sec. 471; 43 U.S.C. 141 et seq.) from settlement, location, sale, entry, or other form of appropriation, and reserved for classification, and in aid of legislation. The Act of October 17, 1940 (54 Stat. 1191; 48 U.S.C. 353 note), provides an exclusive method for the lease or disposal of these public lands.

The Act releases sections 16 and 36, townships 17 and 18 north, ranges 1 and 2 east, Seward Meridian, Alaska, from the reservation thereof made by the Act of March 4, 1915 (38 Stat. 1214; 48 U.S.C. 353, 354), for the support of the common schools in the Territory of Alaska, and provides for the designation and reservation of an equal area of indemnity lands in lieu thereof, in accordance with the Act of February 28, 1891 (26 Stat. 796; 43 U.S.C. 851, 852).

The Act provides that all leases and patents issued shall contain a reservation to the United States of the oil, gas, and other mineral deposits, together with the right to prospect for, mine and remove the same under such regulations as the Secretary of the Interior may prescribe.

§ 75.2 *Policy.* It will be the policy of this Department to promote the beneficial use of the public lands in the area described, subject to the terms of the Act, and at the same time to safeguard the public interest in the land. To this end, the General Land Office will cooperate with the Alaska Rural Rehabilitation Corporation in its development program of the Matanuska Valley Colonization Project of Alaska.

§ 75.3 *Preference right to Alaska Rural Rehabilitation Corporation.* The Alaska Rural Rehabilitation Corporation shall have the preference right to purchase such part of the above-described public lands as the Corporation shall certify to the Commissioner of the General Land Office have been improved or cleared and are ready for settlement and development into farm units. The preference right application must be filed by the Alaska Rural Rehabilitation Corporation within 60 days from the date of approval of these regulations.

§ 75.4 *Persons entitled to make application.* Colonists and settlers who are approved and certified by the Alaska Rural Rehabilitation Corporation may file an application for the purchase or lease of such lands as are not sold to the Corporation. The amount of land sold, or leased to any such person shall not exceed the acreage necessary for the purpose of developing a farm unit which will support such person and his family, as determined by the Corporation.

§ 75.5 *Authorization for sale.* No sale will be authorized or made, except on prior approval of the Secretary of the Interior.

§ 75.6 *Sale price and lease rental.* The sale price of lands sold hereunder shall be fixed by the General Land Office upon consideration of the recommendation of the Alaska Rural Rehabilitation Corporation but in no case shall it be less than $1.25 per acre. The annual rental on land leased hereunder shall be the amount determined by the General Land Office, upon consideration of the recommendation of the Corporation.

§ 75.7 *Evidence of citizenship required.* No person shall be entitled to a patent or lease unless he is a native born or naturalized citizen of the United States, or one who has declared his intentions to become a citizen. If naturalized, or a declarant, he must show, by affidavit, the title and location of the court in which proceedings were instituted, the date of naturalization or declaration of intentions, and if available, the number of the document.

§ 75.8 *Action by Alaska Rural Rehabilitation Corporation.* If the Corporation approves an application by a colonist or settler for the purchase or lease of land, the Corporation shall file the application and its certificate of approval with the register, district land office, Anchorage, Alaska. The application shall include the name, address, and evidence of citizenship of the applicant, and a complete legal description of the land involved. If the application is for a patent, it shall be accompanied by the full amount of the purchase price of the land, as recommended by the Corporation. If the application is for a lease, it shall be accompanied by the full amount of the first annual lease rental payment, as recommended by the Corporation. The certificate of approval of the Corporation shall include a statement that the land described does not exceed the amount necessary for the purpose of developing a farm unit which will support the applicant and his family.

§ 75.9 *Action by district land office.* The register will assign a current serial number to each case and make appropriate notations on the records of his office. In the absence of any objections as shown by his records, he will, if the application is for a patent, and is accompanied by the purchase price, issue a cash certificate on Form 4-189 to the person named in the application, and forward the papers to the General Land Office. If the application is for a lease and is accompanied by the first annual rental payment, the application shall be forwarded to the General Land Office.

§ 75.10 *Action by General Land Office.* Upon receipt by the General Land Office of the application and accompanying papers, the Commissioner, if all be found regular, will cause a patent or lease, as the case may be, to be issued to the applicant. A patent, however, will not be issued without the prior approval of the Secretary of the Interior.

§ 75.11 *Causes for cancellation.* The lease shall be subject to cancellation by the Commissioner, for failure of the lessee to comply with any of the terms, covenants and stipulations of the lease or of §§ 75.1 to 75.13 inclusive.

§ 75.12 *Payment of annual rental on lease.* Annual rental on a lease must be paid to the register, district land office, Anchorage, Alaska, on or before each anniversary date of the lease.

§ 75.13 *Patent and lease reservations.* Patents and leases issued under the provisions of the Act shall contain a reservation to the United States of the oil, gas, and other mineral deposits, together with the right to prospect for, mine, and remove the same under such regulations as the Secretary of the Interior may prescribe.

§ 75.14 *Appeals.* Any party aggrieved by any action of the Commissioner may appeal to the Secretary of the Interior pursuant to the Rules of Practice (43 CFR, Part 221).

FRED W. JOHNSON,
Commissioner.

Approved: August 23, 1943.

OSCAR L. CHAPMAN,
Assistant Secretary.

[F. R. Doc. 43-14682; Filed, September 8, 1943; 9:31 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

Chapter II—Office of Defense Transportation

[Administrative Order ODT 7]

PART 503—ADMINISTRATION

DELEGATION OF AUTHORITY TO DIVISION OF RAILWAY TRANSPORT

Pursuant to Executive Order 8989, *It is hereby ordered,* That:

§ 503.210 *Appointment of special representative.* Mr. A. H. Gass, Manager, Military Transportation Section, War Department, Pentagon Building, Washington, D. C., is hereby appointed special representative of the Division of Railway Transport, Office of Defense Transportation, with authority, subject to my general supervision and right of revocation in any given case,

(a) To direct the movement over the lines of any carrier by railroad, of any special freight train the operation of which has been authorized by a special permit issued by said A. H. Gass, under the provisions of Service Order No. 151 issued by the Interstate Commerce Commission on September 1, 1943, on the application of a responsible official or officer of the Department of War, the Department of the Navy, the Marine Corps, or the Coast Guard, of the United States; and

(b) To furnish such information concerning the operation of any such freight

train to such officials or employees of the Office of Defense Transportation at such times and in such form and manner as the Director of the Division of Railway Transport, Office of Defense Transportation, may direct.

This Administrative Order ODT 7 shall become effective on September 10, 1943.

(E.O. 8989, 6 F.R. 6725)

Issued at Washington, D. C., this 4th day of September 1943.

JOSEPH B. EASTMAN,
Director,
Office of Defense Transportation.

[F. R. Doc. 43-14702; Filed, September 8, 1943; 11:43 a. m.]

Notices

DEPARTMENT OF THE INTERIOR.

Bureau of Mines.

MAX L. KELLY

PROCEEDINGS FOR REVOCATION OF LICENSES

Order revoking licenses, directing surrender of licenses, requiring records to be furnished, and denying application for license.

Based upon the records in this matter, I, R. R. Sayers, Director of the Bureau of Mines, make the following findings of fact:

1. On April 2, 1943, I signed an order finding that you had violated the Federal Explosives Act and the regulations thereunder. Thereafter, on or about April 28, 1943, R. M. Russell, a Federal Explosives Licensing Agent, issued Purchaser's License No. 504855 to you, based upon an application which did not bear an endorsement of your qualifications by a representative of the Bureau of Mines. In the circumstances, the licensing agent was forbidden by section 6 (b) of the regulations to issue the license to you.

2. On August 6, 1943, a specification of charges against you setting forth violations of the Federal Explosives Act (55 Stat. 863), as amended, and the regulations pursuant thereto of which you were accused, was mailed to you giving you notice to mail an answer within fifteen days answering the charges against you and requesting an oral hearing if you wished.

3. More than twenty-one days have elapsed since August 6. The length of time required for mail delivery to the Bureau of Mines, Washington, D. C., from Albany, Oregon, does not exceed six days. The only communication which I have received from you is your answer dated August 18. You have not requested an oral hearing.

4. You failed to state in your application for purchaser's license No. 504855 certain information called for by the act, the regulations, and the Bureau of Mines application form, in particular information called for by sections 2 (d) (e) (f) and 3 (a) of the form. The facts described in this paragraph establish violations by you of section 9 of the act and section 7 of the regulations.

5. You failed and refused to furnish me with a full, detailed and tabulated record of your transactions in explosives and ingredients of explosives as required by my order of April 2, which was delivered to you on April 7. You were required by that order to deliver or mail the record to me not later than April 15. On or about August 20 you did mail to me a document, enclosed with your answer of August 18 in these proceedings, purporting to represent all sales of explosives made by you on and after January 16. The document does not even purport to furnish the following information called for by my order of April 2: "* * * the amount of each kind of explosives or ingredients which you had on hand at the opening of business on January 16, 1943, the amount of each kind of explosives or ingredients acquired by you that day and each day thereafter, the dates on which acquired, and the names and addresses of the persons from whom acquired * * *" The facts described in this paragraph establish violations by you of sections 5 and 10 of the act and section 14 (d) of the regulations.

6. You failed and refused to surrender your revoked licenses by delivering or mailing them to me on or before April 15, as required by my order of April 2, which was delivered to you on April 7. You did not surrender said licenses until on or about August 20. The facts described in this paragraph establish a violation by you of section 22 of the regulations.

7. You submitted with your answer of August 18 in these proceedings an application dated August 20 for the reissuance of a vendor's license to you.

8. You are not sufficiently reliable to be authorized to handle explosives or ingredients of explosives.

Now therefore, by virtue of the authority vested in me by the Federal Explosives Act and the regulations pursuant thereto, *I hereby order:*

1. That all unexpired licenses heretofore issued to you under the Federal Explosives Act and not heretofore revoked be and they are hereby revoked at the expiration of two weeks from the date of this order.

2. That within two weeks from the date of this order you shall use or sell or otherwise dispose of, to properly licensed persons, all explosives and ingredients of explosives owned or possessed by you or consigned to you or which are in your custody.

3. That after having disposed of all of the explosives or ingredients of explosives as required by paragraph 2 of this order you shall within two weeks from the date of this order deliver or mail to L. H. McGuire, Engineer in Charge, United States Bureau of Mines, 233 Federal Office Building, Seattle 4, Washington, a sworn statement of your transactions in and operations involving explosives and ingredients beginning with the date of this order and ending with the final disposition of the explosives and ingredients as required above. The statement shall set forth the amount of each kind of explosives or ingredients which you had on hand at each location at the opening of business on the date of this order, the amount of each kind required by you that day and each day thereafter, the dates on which acquired, and the names and addresses of the persons from whom acquired, the amount of each kind used, sold or otherwise disposed of by you, the dates on which used or disposed of, and the names, addresses and Federal explosives license numbers and dates of the persons to whom disposed of.

4. That within two weeks from the date of this order you shall surrender all licenses issued to you under the Federal Explosives Act, not heretofore surrendered by you, and all certified and photostatic copies thereof, by mailing or delivering them to L. H. McGuire, Engineer in Charge, United States Bureau of Mines, 233 Federal Office Building, Seattle 4, Washington.

5. Your application of August 20, 1943 for the reissuance of a vendor's license to you is denied.

Failure to comply with any of the provisions of this order will constitute a violation of the Federal Explosives Act punishable by a fine of not more than $5,000 or by imprisonment for not more than one year, or by both such fine and imprisonment.

This order shall be published in the FEDERAL REGISTER.

Dated at Washington, D. C., this 4th day of September 1943.

R. R. SAYERS,
Director, Bureau of Mines.

[F. R. Doc. 43-14680; Filed, September 8, 1943; 9:29 a. m.]

CIVIL AERONAUTICS BOARD.

[Docket No. SA-83]

MACOMB AIRPORT, MACOMB, ILL.

NOTICE OF HEARING

In the matter of investigation of accident involving aircraft of United States Registry NC 29256 which occurred at Macomb Airport, Macomb, Illinois, on August 14, 1943.

Notice is hereby given, pursuant to the Civil Aeronautics Act of 1938, as amended, particularly section 702 of said Act, in the above-entitled proceeding, that hearing is hereby assigned to be held on Wednesday, September 22, 1943, at 9:30 AM (CWT) at the Morrison Hotel, Chicago, Illinois.

Dated at Washington, D. C., September 7, 1943.

[SEAL] ALLEN P. BOURDON,
Presiding Officer.

[F. R. Doc. 43-14683; Filed, September 8, 1943; 10:01 a. m.]

FEDERAL TRADE COMMISSION.

[Docket No. 4973]

BELT OIL & CHEMICAL CORPORATION, ET AL.

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 7th day of September, A. D. 1943.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., section 41),

It is ordered, That James A. Purcell, a trial examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, September 14, 1943, at ten o'clock in the forenoon of that day (Eastern Standard Time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the trial examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The trial examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 43-14634; Filed, September 8, 1943; 10:55 a. m.]

OFFICE OF ALIEN PROPERTY CUSTODIAN.

[Vesting Order 2066]

WILL OF IDA LUDEKE

In re: Trust under will of Ida Ludeke, deceased; File D-28-6545; E. T. sec. 4148.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order No. 9095, as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the process of administration by the Hudson Trust Company, of Hoboken, New Jersey, Substituted Trustee, acting under the judicial supervision of the Hudson County Orphans' Court, of Jersey City, New Jersey; and

(2) Such property and interests are payable or deliverable to, or claimed by, nationals of a designated enemy country, Germany, namely,

Nationals and Last Known Address

Dora Hartmann, Germany.
Margaret B. Nolte, Germany.

And determining that—

(3) If such nationals are persons not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country, Germany; and

Having made all determinations and taken all action, after appropriate consultation and certification required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interests:

All right, title, interest, and claim of any kind or character whatsoever of Dora Hartmann and Margaret B. Nolte, and each of them in and to the Trust created under the will of Ida Ludeke, deceased.

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC-1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: September 1, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43-14685; Filed, September 8, 1943; 10:41 a. m.]

[Vesting Order 2067]

ESTATE OF AURELIO MARTINO

In re: Estate of Aurelio Martino, also known as Aurelio T. Martino, also known as Aurelio Martirno, deceased; File D-38-729; E. T. sec. 7119.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order 9095, as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the process of administration by the Potter Title and Trust Company, Administrator, acting under the judicial supervision of the Orphans' Court of Allegheny County, Pennsylvania;

(2) Such property and interests are payable or deliverable to, or claimed by, nationals of a designated enemy country, Italy, namely,

Nationals and Last Known Address

Thereselna Martino, Italy.
Arturo Martino, Italy.
Theresa Epolito, Italy.
Carmela Epolito, Italy.

And determining that—

(3) If such nationals are persons not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country, Italy; and

Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interests:

All right, title, interest, and claim of any kind or character whatsoever of Thereselna Martino, Arturo Martino, Theresa Epolito and Carmela Epolito, and each of them, in and to the Estate of Aurelio Martino, also known as Aurelio T. Martino, also known as Aurelio Martino, deceased,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC-1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: September 1, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43-14686; Filed, September 8, 1943; 10:41 a. m.]

[Vesting Order 2068]

ESTATE OF EDWARD MOLNAR

In re: Estate of Edward Molnar, deceased; File F-34-334; E. T. sec. 2450.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order 9095, as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the process of administration by the Commercial Merchants National Bank and Trust Company of Peoria, Peoria, Illinois, and Mary Doubet Cassell, Jefferson Building, Peoria, Illinois, Co-executors, acting under the judicial supervision of the Probate Court of Peoria County, State of Illinois;

(2) Such property and interests are payable or deliverable to, or claimed by, nationals of a designated enemy country, Hungary, namely,

Nationals and Last Known Address

Boris Molnar Erdelyi, Hungary (Rumania).
Moritz Morgenstern, Hungary.
Margaret Szekely, Hungary (Rumania).
Boris Boda, Hungary (Rumania).
Klari Boda, Hungary (Rumania).
Person or persons, names unknown, entitled to the Edward Molnar Marker Fund, Hungary.

And determining that—

(3) If such nationals are persons not within a designated enemy country, the national

interest of the United States requires that such persons be treated as nationals of a designated enemy country, Hungary; and

Having made all determinations and taken all action, after appropraite consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interests:

All right, title, interest and claim of any kind or character whatsoever of Boris Molnar Erdelyi, Moritz Morgenstern, Margaret Szekely, Boris Boda, Klari Boda, and person or persons, names unknown, entitled to the Edward Molnar Marker Fund, and each of them, in and to the estate of Edward Molnar, deceased,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC–1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: September 1, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43–14687; Filed, September 8, 1943; 10:41 a. m.]

[Vesting Order 2069]

ESTATE OF MINNIE NESTER

In re: Estate of Minnie Nester, formerly known as Wilhelmine Nester, deceased; File D–28–3635; E. T. sec. 6016.

Under the authority of the Trading with the Enemy Act, as amended and Executive Order No. 9095, as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the process of administration by Oscar Bernheim, 963 Broadway, Brooklyn, N. Y., Executor, acting under the judicial supervision of the Surrogate's Court, Kings County, State of New York; and

(2) Such property and interests are payable or deliverable to, or claimed by, a national of a designated enemy country, Germany, namely,

National and Last Known Address

Frieda Stewart, Germany.

And determining that—

(3) If such national is a person not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country, Germany; and

Having made all determinations and taken all action after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interests:

All right, title, interest and claim of any kind or character whatsoever of Frieda Siewert in and to the Estate of Minnie Nester, formerly known as Wilhelmine Nester, deceased,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof shall be held in an appropriate special account or accounts pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon on form APC–1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: September 1, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43–14688; Filed, September 8, 1943; 10:41 a. m.]

[Vesting Order 2070]

ESTATE OF BERTHA M. J. REIBER

In re: Estate of Bertha M. J. Reiber; File D–28–2386; E. T. sec. 4291.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order 9095, as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the process of administration by the Clerk of Essex County Orphans' Court, depositary, acting under the judicial supervision of the Essex County Orphans' Court of Essex County, New Jersey;

(2) Such property and interests are payable or deliverable to, or claimed by, nationals of a designated enemy country, Germany, namely,

Nationals and Last Known Address

Walter Ahl, Germany.
Erna Ahl, Germany.
Emilie Norheimer, Germany.
Julius Reiber, Germany.
Ella Arriens, Germany.
Bertha Amon, Germany.
Curt Harries, Germany.

And determining that—

(3) If such nationals are persons not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country, Germany; and

Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interests:

All right, title, interest, and claim of any kind or character whatsoever of Walter Ahl, Erna Ahl, Emilie Norheimer, Julius Reiber, Ella Arriens, Bertha Amon and Curt Harries, and each of them, in and to the Estate of Bertha M. J. Reiber, deceased,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC–1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: September 1, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43–14689; Filed, September 8, 1943; 10:42 a. m.]

[Vesting Order 2071]

ESTATE OF CLEMENTINE ROSENBACH

In re: Estate of Clementine Rosenbach, deceased; File D–28–3542; E. T. sec. 5752.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order 9095, as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the process of administration by the Treasurer of the County of Cook, State of Illinois, as depositary, acting under the judicial supervision of the Probate Court of Cook County, Illinois; and

(2) Such property and interests are payable or deliverable to, or claimed by, a national of a designated enemy country, Germany, namely,

National and Last Known Address

Marie Koelsch nee Stolzenberg, Germany.

And determining that—

(3) If such national is a person not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country, Germany; and

Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interests:

Cash distributable and payable to Marie Koelsch nee Stolzenberg in the sum of $834.60, which amount was deposited with the Treasurer of Cook County, Illinois, on February 13, 1942, pursuant to order of the court of February 2, 1942, to the credit of the aforesaid national,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC–1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: September 1, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43–14690; Filed, September 8, 1943; 10:42 a. m.]

[Vesting Order 2072]

ESTATE OF DANIEL E. SALVUCCI

In re: Estate of Daniel E. Salvucci, deceased; File D–38–681; E. T. sec. 6736.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order 9095, as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the process of administration by Peary Salvucci, Administrator, acting under the judicial supervision of the Orphans Court, Philadelphia County, Pennsylvania.

(2) Such property and interests are payable or deliverable to, or claimed by, a national of a designated enemy country, Italy, namely,

National and Last Known Address

Joseph Salvucci, Bagnoli, Detrigno, Campobasso, Italy.

And determining that—

(3) If such national is a person not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country, Italy; and

Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interests:

All right, title, interest, and claim of any kind or character whatsoever of Joseph Salvucci in and to the estate of Daniel E. Salvucci, deceased,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC–1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: September 1, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43–14691; Filed, September 8, 1943; 10:42 a. m.]

[Vesting Order 2073]

ESTATE OF ALBERT BERND SIMON

In re: Estate of Albert Bernd Simon, also called Albert B. Simon, also called Albert Simon, deceased; File D–34–121; E. T. sec. 4042.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order 9095, as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the process of administration by Phil C. Katz, Public Administrator, acting under the judicial supervision of the Superior Court of the State of California, in and for the City and County of San Francisco;

(2) Such property and interests are payable or deliverable to, or claimed by, nationals of a designated enemy country, Hungary, namely,

Nationals and Last Known Address

Joseph Simon, Hungary.

Cousins, names unknown of Albert Bernd Simon, deceased, Hungary.

And determining that—

(3) If such nationals are persons not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country, Hungary; and

Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interests:

All right, title, interest and claim of any kind or character whatsoever of Joseph Simon and cousins, names unknown, of Albert Bernd Simon, deceased, and each of them in and to the Estate of Albert Bernd Simon, also called Albert B. Simon, also called Albert Simon, deceased,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC–1 within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: September 1, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43–14692; Filed, September 8, 1943; 10:42 a. m.]

[Vesting Order 2074]

ESTATE OF SELMA J. SUNDSTEN

In re: Estate of Selma J. Sundsten, deceased; File D-28-2081; E.T. sec. 2418.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order 9095, as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the process of administration by the Continental Illinois National Bank and Trust Company of Chicago, Executor, 231 South LaSalle Street, Chicago, Illinois, acting under the judicial supervision of the Probate Court of the State of Illinois, in and for the County of Cook;

(2) Such property and interests are payable or deliverable to, or claimed by, nationals of a designated enemy country, Germany, namely,

Nationals and Last Known Address

Mathilda Lutterloh, 10 Roonstrasse, Braunschweig, Germany.

Herrmann Lutterloh, 10 Roonstrasse, Braunschweig, Germany.

Person or persons, names unknown, lawful issue of Mathilda Lutterloh, Germany.

And determining that—

(3) If such nationals are persons not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country, Germany; and

Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interests;

All right, title, interest and claim of any kind or character whatsoever of Mathilda Lutterloh, Herrmann Lutterloh and person or persons, names unknown, lawful issue of Mathilda Lutterloh, and each of them, in and to the estate of Selma J. Sundsten, deceased,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC-1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: September 1, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43-14693; Filed, September 8, 1943; 10:42 a. m.]

[Vesting Order 2075]

ESTATE OF THOMAS THIESEN

In re: Estate of Thomas Thiesen, deceased; File D-28-3662; E. T. sec. 5989.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order 9095, as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the process of administration by P. W. Jensen, Administrator, acting under the judicial supervision of the County Court of Canadian County, Oklahoma;

(2) Such property and interests are payable or deliverable to, or claimed by, nationals of a designated enemy country, Germany, namely,

Nationals and Last Known Address

Johannea Priess, Germany.
Catherine Thiesen Jochimsen, Germany.
Thomas Thiesen, Germany.
Matta Thiesen Carstens, Germany.

And determining that—

(3) If such nationals are persons not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country, Germany; and

Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interests:

All right, title, interest, and claim of any kind or character whatsoever of Johannea Priess, Catherine Thiesen Jochimsen, Thomas Thiesen and Matta Thiesen Carstens, and each of them, in and to the estate of Thomas Thiesen, deceased,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC-1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: September 1, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43-14694; Filed, September 8, 1943; 10:42 a. m.]

[Vesting Order 2076]

ESTATE OF CHARLES WAGNER

In re: Estate of Charles Wagner, or Charles J. Wagner, or Carl Joseph Wagner, deceased; File 4-28-4127; E. T. sec. 7111.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order 9095, as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the process of administration by Potter Title and Trust Company, Fourth Avenue and Grant Street, Pittsburgh, Pennsylvania, Administrator, acting under the judicial supervision of the Orphans' Court of Allegheny County, Pennsylvania;

(2) Such property and interest are payable or deliverable to, or claimed by, nationals of a designated enemy country, Germany, namely,

Nationals and Last Known Address

Carl Wagner, father of the decedent,
_____ Wagner, mother of the decedent, first name unknown, and their issue, names unknown, Germany.

And determining that—

(3) If such nationals are persons not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country, Germany; and

Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interests:

All right, title, interest, and claim of any kind or character whatsoever of Carl Wagner, father of the decedent, _____ Wagner, mother of the decedent, first name unknown, and their issue, names unknown, and each of them, in and to the estate of Charles Wagner, or Charles J. Wagner, or Carl Joseph Wagner, deceased,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the power of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC–1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: September 1, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43–14695; Filed, September 8, 1943; 10:43 a. m.]

[Vesting Order 2077]

ESTATE OF ANNA HELENE JOSEPHINE YOUNG

In re: Estate of Anna Helene Josephine Young, deceased; File D–28–4043; E. T. sec. 7027.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order 9095, as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the process of administration by Fidelity-Philadelphia Trust Company and Joanna B. Green, Executors, acting under the judicial supervision of the Orphans Court, Philadelphia County, Pennsylvania,

(2) Such property and interests are payable or deliverable to, or claimed by, a national of a designated enemy country, Germany, namely,

National and Last Known Address

Alexander von Beroldingen, Germany.

And determining that—

(3) If such national is a person not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country, Germany; and

Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interests:

All right, title, interest and claim of any kind or character whatsoever of Alexander von Beroldingen in and to the estate of Anna Helene Josephine Young, deceased,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC–1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: September 1, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43–14696; Filed, September 8, 1943; 10:43 a. m.]

[Vesting Order 2078]

ESTATE OF GIUSEPPE YUCOPILA

In re: Estate of Giuseppe Yucopila, also called Joe Jucopila, also called Joe Iucopila, also called Joe Ucopila, deceased; File D–38–570; E. T. sec. 6138.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order 9095, as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the process of administration by Phil C. Katz, Public Administrator, acting under the judicial supervision of the Superior Court of the State of California, in and for the City and County of San Francisco;

(2) Such property and interests are payable or deliverable to, or claimed by nationals of a designated enemy country, Italy, namely,

Nationals and Last Known Address

Elvira Iucopila, Italy.

Child or children, names unknown, of Giuseppe Yucopila, also known as Joe Jucopila, also known as Joe Iucopila, also known as Joe Ucopila, deceased, Italy.

And determining that—

(3) If such nationals are persons not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country, Italy; and

Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interests:

All right, title, interest and claim of any kind or character whatsoever of Elvira Iucopila and child or children, names unknown, of Giuseppe Yucopila, also known as Joe Jucopila, also known as Joe Iucopila, also known as Joe Ucopila, deceased, and each of them in and to the Estate of Giuseppe Yucopila, also called Joe Jucopila, also called Joe Iucopila, also called Joe Ucopila, deceased,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC–1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: September 1, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43–14697; Filed, September 8, 1943; 10:43 a. m.]

CISATLANTIC AND CISOCEANIC CORPORATIONS, ET AL.

HEARING BEFORE VESTED PROPERTY CLAIMS COMMITTEE

In the matter of Edgar Ausnit, President, Cisatlantic and Cisoceanic Corporations; U. S. Ordnance Engineers, Inc.: Industria Romana Mecanica si Chimica, S. A.

Whereas on July 2, 1942, by Vesting Order No. 46 (7 Fed. Reg. 5105), supplemented on April 27, 1943 by Supplement to Vesting Order No. 46 (8 Fed. Reg. 5770), the Alien Property Custodian vested among other things certain forge shop equipment described as then stored in part with the Steamship Terminal Operating Corporation, Brooklyn, New York, and in part with Bethlehem Steel Company, Bethlehem, Pennsylvania, finding that the said forge shop equipment was on July 2, 1942 property of Industria Romana Mecanica si Chimica, S. A., a corporation organized under the laws of and doing business in Rumania and a national of Rumania; and

Whereas Edgar Ausnit, President, Cisatlantic and Cisoceanic Corporations, has filed Notice of Claim No. 26, which appears to assert among other things that the said Edgar Ausnit is a Cuban citizen and was on the said July 2, 1942 the owner of an interest in the said forge shop equipment; and

Whereas U. S. Ordnance Engineers, Inc., has filed Notice of Claim No. 676, which appears to assert among other things that U. S. Ordnance Engineers, Inc., is a corporation organized under the laws of Ohio, and that the said U. S. Ordnance Engineers, Inc., was on the said July 2, 1942 the holder of a lien on and the owner of an interest in the said forge shop equipment:

Now, therefore, it is ordered, Pursuant to the regulations heretofore issued by the Alien Property Custodian (7 Fed. Reg. 2290), that the said claims be consolidated for hearing and that the hearing thereon be held before the Vested

Property Claims Committee on September 29, 1943, at 10:00 a. m. eastern war time, in Room 411, National Press Building, 14th and F Streets, NW., Washington, D. C., to continue thereafter at such times and places as the Committee may determine.

It is further ordered, That copies of this notice of hearing be served by registered mail upon the said Edgar Ausnit and U. S. Ordnance Engineers, Inc., and upon the persons designated in paragraph 2 of the said Notices of Claim, and be published in the FEDERAL REGISTER.

Any person desiring to be heard either in support of or in opposition to the said claims or either of them may appear at the hearing, and is requested to notify the Vested Property Claims Committee, Office of Alien Property Custodian, National Press Building, 14th and F Streets, NW., Washington (25), D. C., on or before September 25, 1943.

The foregoing characterization of the claims is for informational purposes only, and shall not be construed to constitute an admission or an adjudication by the Office of Alien Property Custodian as to the nature or validity of the claims. Copies of the claims and of the said vesting order and supplement thereto are available for public inspection at the above address.

[SEAL] VESTED PROPERTY CLAIMS COMMITTEE,
JOHN C. FITZGERALD,
Chairman
MICHAEL F. KRESKY.
CHARLES O. HARDY.

[F. R. Doc. 43-14698; Filed, September 8, 1943; 10:47 a. m.]

OFFICE OF PRICE ADMINISTRATION.

[Order 1 Under MPR 458]

OAK FLOORING FOR DIRECT MILL SHIPMENT

For the reasons set forth in an opinion issued simultaneously herewith, and in accordance with section 6 of Maximum Price Regulation No. 458, *It is ordered:*

(a) *Maximum prices for sales of oak flooring lumber for direct mill shipment.* The maximum prices for sales of oak flooring for direct mill shipment shall be the seller's present maximum price as established under Maximum Price Regulation No. 458—Oak Flooring—*Provided,* That the seller may deliver, or agree to deliver at prices to be adjusted upward in accordance with action taken by the Office of Price Administration after delivery.

(b) This order may be revoked or amended by the Price Administrator at any time.

This order becomes effective September 8, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 7th day of September 1943.

CHESTER BOWLES,
Acting Administrator.

[F. R. Doc. 43-14673; Filed, September 8, 1943; 9:28 a. m.]

LIST OF INDIVIDUAL ORDERS GRANTING ADJUSTMENTS UNDER PRICE REGULATIONS

The following orders were filed with the Division of the Federal Register on September 6, 1943.

Order Number and Name

RPS 67, Order 18, Waltham Machine Works.
MPR 118, Order 11, Grosvenor Dale Mills.
MPR 121, Order 22, Providence Gas Co.
RMPR 161, Order 28, Canyon Lumber Co., et al.
RMPR 161, Order 29, A. B. Berns, et al.
MPR 163, Order 21, Wilton-Winthrop Mills.
MPR 291, Order 2, Stacy Williams Co.
MPR 427, Order 1, Thrift Packing Co.

Copies of these orders may be obtained from the Office of Price Administration.

ERVIN H. POLLACK,
Head, Editorial and Reference Section.

[F. R. Doc. 43-14675; Filed, September 8, 1943; 9:25 a. m.]

LIST OF INDIVIDUAL ORDERS GRANTING ADJUSTMENTS UNDER PRICE REGULATIONS

The following orders were filed with the Division of the Federal Register on September 4, 1943.

Order Number and Name

MPR 136, as amended, Order 95, Atlas Foundry Co.
MPR 244, Order 39, Atlas Foundry Co.

Copies of these orders may be obtained from the Office of Price Administration.

ERVIN H. POLLACK,
Head, Editorial and Reference Section.

[F. R. Doc. 43-14674; Filed, September 8, 1943; 9:25 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

[File No. 70-7727]

SOUTHWESTERN PUBLIC SERVICE CO. AND GUS B. WALTON

ORDER AMENDING PRIOR ORDER

At a regular session of the Securities and Exchange Commission held at its office in the City of Philadelphia, Pennsylvania on the 4th day of September, A. D. 1943.

The Commission having heretofore, by order dated August 31, 1943, permitted the declaration of Southwestern Public Service Company, filed in the above entitled proceedings, to become effective, and having by said order granted the applications of said Southwestern Public Service Company and of Gus B. Walton, filed in said proceedings, subject to the terms and conditions prescribed by Rule U-24;

Said Southwestern Public Service Company having heretofore, by amendment (filed August 20, 1943) to its original declaration filed herein, requested that there be included in any order entered by the Commission authorizing the said declaration and applications a recital that the transfer of the securities of Arkansas Utilities Company by said Southwestern Public Service Company to said Gus B. Walton as proposed in said declaration and applications is necessary or appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935, and having further requested that such order include a specification and itemization of the securities of Arkansas Utilities Company to be transferred pursuant to such order, said requests being made in order that said Southwestern Public Service Company might avail itself of the exemption from certain federal stamp taxes provided by section 1808 of the Internal Revenue Code of the United States as amended by section 506 of the Revenue Act of 1942;

The Commission having heretofore by order dated July 8, 1942 in that proceeding designated by the Commission's File No. 70-282, directed, among other things, that said Southwestern Public Service Company take such action as might be necessary to divest itself of all ownership and all control of said Arkansas Utilities Company, and having found, in findings made and filed in the proceeding in which said last mentioned order was entered, and concurrently therewith, that such divestment was necessary and appropriate to effectuate the provisions of section 11 (b) of said Public Utility Holding Company Act of 1935;

It appearing to the Commission that the sale and transfer authorized by the order entered herein on August 31, 1943 is in compliance with said order of July 8, 1942, and the Commission finding that the disposition of said interest of said Southwestern Public Service Company by the sale and transfer of the securities of said Arkansas Utilities Company to said Gus B. Walton as authorized by the order of August 31, 1943 entered herein, is necessary and appropriate to effectuate the provisions of said section 11 (b) and to effect compliance with said order of July 8, 1942, and that the request of said Southwestern Public Service Company is, and was, one proper to be granted, but that inadvertently the requested recitation, specification and itemization was omitted from the said order of the Commission entered herein on August 31, 1943, and the Commission finding that said order should be corrected in that respect, as of the date thereof;

It is ordered, That the order of this Commission entered herein on August 31, 1943, be, and the same is hereby, amended, as of the date thereof, by the insertion therein, after the paragraph of said order beginning with the words "Provided that" and before the words "By the Commission," of the following:

"*It is further ordered,* and the Commission finds, that the sale and transfer of the securities of Arkansas Utilities Company by Southwestern Public Service Company to Gus B. Walton authorized by this order, such securities being itemized and specified as (1) all the outstanding First Mortgage 4% Bonds, Series A, due June 1, 1971 of said Arkansas Utilities Company, being in the aggregate principal amount of $1,000,000, and (2) all

the outstanding stock of said Arkansas Utilities Company, such stock consisting of 100,000 shares of common stock of said company of the par value of $5.00 per share, are necessary and appropriate to effectuate the provisions of Section 11 (b) of the Public Utility Holding Company Act of 1935."

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 43-14678; Filed, September 8, 1943; 9:28 a. m.]

[File No. 70-736]

FEDERAL WATER & GAS CORP. AND ALABAMA WATER SERVICE CO.

NOTICE OF FILING AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa, on the 6th day of September, A. D. 1943.

Notice is hereby given that Amendment No. 1 to applications and declarations previously filed has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by Federal Water and Gas Corporation, a registered holding company, and by its subsidiary, Alabama Water Service Company. All interested persons are referred to said amendment to said applications and declarations, which is on file at the office of this Commission, for a statement of the transactions therein proposed, which are summarized as follows:

(1) The sale by Alabama Water Service Company to the City of Albertville, Alabama, or its nominee, The Water Works Board of the City of Albertville, of the water works system serving Albertville and contiguous territory, including an elevated storage tank on the Albertville-Boaz Highway, for $170,000 in cash, plus an adjustment for additions and betterments subsequent to the date of contract;

(2) The sale by Alabama Water Service Company to the Town of Boaz, Alabama, or its nominee, The Water Works Board of the Town of Boaz, of the water distribution system serving Boaz and contiguous territory, together with a transmission main connecting such system to the above-mentioned storage tank, for $65,000 in cash, plus an adjustment for additions and betterments subsequent to the date of contract;

(3) The sale by Alabama Water Service Company to the Town of York, Alabama, or to its nominee, The Water Works Board of the Town of York, of the entire water distribution system serving York and contiguous territory, for $60,000 in cash, plus an adjustment for additions and betterments subsequent to the date of the contract;

(4) The use of the proceeds of the sales to redeem, in part, Alabama Water Service Company First Mortgage Bonds, 3¾% Series, due 1965.

It is stated that the proposed transactions constitute further steps in the consummation of Federal's plan for the divestment by Federal of its interests in the business and property of Alabama and are in conformity with the Commission's order dated February 10, 1943 (Holding Company Act Release No. 4113). The proposed transactions are stated to be a part of a general program which contemplates the sale by Alabama of all of its water works properties, the application of the proceeds of such sales to the retirement by Alabama of all of its bonded debt, the retirement or redemption of all of its preferred stock, and the subsequent sale by Federal of Alabama's common stock to a purchaser desirous of acquiring Alabama's remaining assets, its electric utility properties.

It appearing to the Commission that it is appropriate in the public interest and in the interest of investors and consumers that a hearing be held with respect to Amendment No. 1 to said applications and declarations and that Amendment No. 1 to said applications and declarations should not become effective or be granted, except pursuant to further order of the Commission:

It is ordered, That a hearing be held upon said matters on the 21st day of September, A. D., 1943, at 10:00 a. m., at the offices of the Securities and Exchange Commission, 18th and Locust Streets, Philadelphia, Pa. On such date the hearing room clerk in room 318 will advise as to the room where such hearing will be held. At such hearing cause shall be shown why such applications may be granted and declarations become effective.

It is further ordered, That Robert P. Reeder, or any other officer or officers of the Commission designated by it for that purpose, shall preside at the hearings in such matter. The officer so designated to preside at such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice.

It is further ordered, That without limiting the scope of the issues presented by said Amendment No. 1 to said applications and declarations, particular attention will be directed at the said hearing to the following matters and questions:

(1) Whether the proposed transactions are consistent with, and appropriate to carry out, Federal's plan as heretofore approved by the Commission in its order dated February 10, 1943 (Holding Company Act Release No. 4113), and are consistent with the public interest and the interests of investors;

(2) What terms and conditions, if any, are necessary or appropriate in the public interest or the interests of investors or consumers to insure compliance with the requirements of the Public Utility Holding Company Act and the rules and regulations or orders promulgated thereunder.

Notice of such hearing is hereby given to Federal Water and Gas Corporation and Alabama Water Service Company, to the Alabama Public Service Commission, and to any other person whose participation in such proceedings may be in the public interest and for the protection of investors and consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceedings shall file with the Secretary of this Commission, on or before September 17, 1943, his request or an application therefor as provided in Rule XVII of the Rules of Practice of the Commission.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 43-14677; Filed, September 8, 1943; 9:28 a. m.]

[File No. 54-81]

THE MIDDLE WEST CORP., ET AL.

NOTICE OF FILING AND ORDER FOR HEARING

In the matter of The Middle West Corporation, Central and South West Utilities Company, and American Public Service Company, Respondents.

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 4th day of September 1943.

I

The Commission having by its order of June 4, 1942 directed, among other things, the termination of the corporate existence of either Central and South West Utilities Company ("Central") or American Public Service Company ("American") and a change in the capitalization of Central and American to a capitalization consisting of a single class of stock, namely, common stock, in an appropriate manner not in contravention of the applicable provisions of the Public Utility Holding Company Act of 1935 ("Act") or the Rules, Regulations and Orders promulgated thereunder:

Notice is hereby given that The Middle West Corporation ("Middle West"), a registered holding company, and its subsidiaries, Central and American, both registered holding companies, have filed with this Commission joint applications and declarations designated as a "Plan" pursuant to section 11 (e) of the Act proposing action designed to merge American into Central, and to change the stock capitalization of American and Central to a single class of common stock in a single corporation to be called Central and South West Corporation (hereinafter referred to as the new company), all as more particularly described hereafter.

All interested persons are referred to said Plan which is on file in the offices of the Commission for a full statement of the transactions therein proposed which are summarized as follows:

1. The new company will have an authorized capitalization of 4,000,000 shares of common stock of the par value of $10 a share, and will issue 3,655,951.59 shares having a total par value of $36,559,516. Each share of the new common stock will be entitled to one vote on all matters submitted to stockholders.

2. The new company will sell to Middle West 50,000 shares of common stock for cash at par to obtain cash for use in carrying out the merger and for corporate purposes.

3. The remaining 3,605,951.59 shares of the new company's common stock will

be issued in exchange for and in cancellation of the outstanding shares of Central and American and all accrued and unpaid dividends thereon as follows:

(a) For each share of $100 par value 7% preferred stock of American with dividend arrears as at December 31, 1943 of $36.75 a share, the holder will receive eleven (11) shares of the new company's common stock, aggregate par value $110 and $24.59 in cash ($24.59 in common stock at par for the holdings of Middle West and cash or stock optional with the public holders) which amount is computed to be the cash discounted value at December 31, 1943 of the dividend arrears on each share. This computation is based on an estimate that said preferred stock dividend arrears would be paid in equal annual installments during the years 1944 to 1958, inclusive, and a discount rate of 5½% per annum.

(b) For each share of $7 prior lien preferred stock of Central, stated value $96.827 with dividend arrears at December 31, 1943 of $25.96 a share, the holder will receive eleven (11) shares of the new company's common stock, aggregate par value $110, and $22.20 in cash ($22.20 in common stock at par for the holdings of Middle West and cash or stock optional with the public holders) which amount is computed to be the discounted value at December 31, 1943 of the dividend arrears on each share. This computation is based on an estimate that said prior lien preferred stock dividend arrears would be paid in equal annual installments during the years 1944 to 1948, inclusive, and a discount rate of 5½% per annum.

(c) For each share of $6 prior lien preferred stock of Central, stated value $92 with dividend arrears at December 31, 1943 of $22.25 a share, the holder (Middle West) will receive nine and four hundred twenty-nine thousandths (9.429) shares of the new company's common stock, aggregate par value $94.29, for such stock and $19.03 in par value common stock for the dividend arrears, which amount is computed to be the discounted value at December 31, 1943 of the dividend arrears on each share. This computation is based on an estimate that said prior lien preferred stock dividend arrears would be paid in equal annual installments during the years 1944 to 1948, inclusive, and a discount rate of 5½% per annum.

(d) For each share of $7 preferred stock of Central, stated value $91.928 with dividend arrears at December 31, 1943 of $83.125 a share, the holder will receive seven and one-half (7½) shares of the new company's common stock, aggregate par value $75.

(e) For each one hundred (100) shares of common stock of Central, par value 50 cents a share, the holder will receive two and three-quarters (2¾) shares of the new company's common stock, aggregate par value $27.50.

(f) For each four (4) shares of common stock of American, par value $80, the holder, except Central, will receive one and one-half (1½) shares of the new company's common stock, aggregate par value $15.

4. It is proposed (as indicated above) that Middle West will take par value of the new company's common stock in the amount of the discounted value of the arrears on the prior lien preferred stock of Central and the preferred stock of American held by it in satisfaction of such arrears whereas the public holders of such stock will be offered cash for the discounted value of such arrears with an option, however, to take stock. Cash in the amount of not more than $2,411,047 and not more than 237,503 shares of common stock of the new company will be paid or issued to satisfy all such dividend arrears as discounted of American preferred stock and the prior lien stocks of Central. The discounted value of the dividend arrears on the stock held by the public, according to the plan, is $2,411,047. The amount of stock of the new company required to cover the discounted value of dividend arrears on the stock held by Middle West, according to the plan, is 237,503 shares. The entire 237,503 shares of the new company's common stock issuable for said purpose will be issued to Middle West in satisfaction of the cash discounted value of dividend arrears at December 31, 1943 except to the extent the public holders may exercise their option to receive stock of the new company. An amount of cash equal to the par amount of any stock taken by the public holders will be paid to Middle West in lieu of said stock taken.

5. It is contemplated that prior to consummation of the Plan, 25,643 shares of preferred stock of West Texas Utilities Company, ("West Texas"), a subsidiary of American, will be sold to West Texas by American at cost to American in the amount of $1,809,473.

6. No fractional shares of the common stock of the new company will be issued, but in lieu thereof non-voting and non-dividend bearing scrip in bearer form will be issued, dated as of the date the merger becomes effective. Such scrip, when combined to create one or more full shares, may be surrendered on or before but not after three years from the date of the scrip certificates, in exchange for full shares of common stock of the new company, and the scrip will provide that, as soon as practicable after the three-year period, any shares represented by such outstanding scrip certificates shall be sold and the proceeds thereof held for the account of the holders of the scrip without liability for interest. Any proceeds represented by scrip certificates not surrendered on or prior to the expiration of seven years from the date of the scrip certificates shall become the property of the new company.

7. As soon as practicable after the entry by the Commission of an order approving the plan, Central and American will submit the Plan for approval at a meeting of stockholders and, upon its approval by a vote of two-thirds of the outstanding shares of capital stock of Central and American, respectively, the plan will become effective upon declaration by the respective Boards of Directors of Central and American. The respondents may request the Commission, pursuant to section 11 (e) of the Act, to apply to a Federal Court to enforce and carry out the terms and provisions of the plan.

II

Central and American filed a joint application-declaration under the provisions of sections 6 (a), 7, 9 (a), 10, 11 (g) and 12 (d) of the Act on February 8, 1940 proposing a plan with respect to a statutory consolidation of such corporation under the Delaware Corporation Law and for authority of the consolidated corporation to acquire the assets of Central and American (File No. 46-205). Notice of Filing and Order for Hearing was issued by this Commission on August 2, 1940. The Commission on December 5, 1940, by Notice of and Order for Hearing, instituted proceedings with respect to Middle West, Central and American pursuant to section 11 (b) (2) of the Act (File No. 59-18). An order for a consolidated hearing was entered in the matter of Central American (File No. 46-205) and Middle West, Central and American (File No. 59-18) on December 7, 1940.

After hearings on such consolidated proceedings, the Commission issued an opinion denying effectiveness to such plan and requiring a change in the capitalization of Central and American as stated in the aforesaid order dated June 4, 1942.

III

The Commission being required by the provisions of section 11 (e) of said Act before approving any plan thereunder to find after notice and opportunity for hearing that such plan as submitted or as modified is necessary to effectuate the provisions of subsection (b) of section 11, and is fair and equitable to the persons affected by such plan; it, therefore, appearing appropriate to the Commission, in the public interest and in the interest of investors and consumers, that notice be given and a hearing be held upon said plan to afford all interested persons an opportunity to be heard with respect thereto; and

It appearing appropriate, in view of the Commission's order of June 4, 1942 and of the provisions of section 11 (d) with respect to court enforcement of such an order, to provide opportunity for hearing, as part of such proceeding, as to whether the Commission should approve any plan of reorganization of American and Central that may be hereafter proposed by the Commission in the first instance or by any person having a bona fide interest in the reorganization.

It is ordered, That a hearing on such matters be held at 10:00 a. m., e. w. t., on the 12th day of October, 1943, at the office of the Securities and Exchange Commission, 18th and Locust Streets, Philadelphia, Pennsylvania, in such room as may be designated at that time by the hearing room clerk in Room 318. All persons desiring to be heard or otherwise wishing to participate in the proceedings should notify the Commission in the manner provided by its Rules of Practice, Rule XVII, on or before October 5, 1943.

It is further ordered, That Richard Townsend or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice.

It is further ordered, That without limiting the scope of the issues presented

by said plan or any other plan which may be filed by any duly qualified persons particular attention will be directed at said hearing to the following matters and questions:

1. Whether the proposed plan is in conformity with the requirements of the Commission's order of June 4, 1942 in this matter;
2. Whether the plan as proposed is fair and equitable to the persons affected, and necessary to effectuate the provisions of section 11 (b) of the Act;
3. Whether the accounting entries proposed in connection with the plan are appropriate and in accordance with sound accounting principles and practice;
4. Whether, in the event that the Commission shall approve the plan as filed or as modified, the Commission shall approve such plan for purposes of section 11 (d) of the Act, as well as section 11 (e), so as to permit the Commission on its own motion and irrespective of request therefor on the part of the respondents, to apply to a court for the enforcement of such plan pursuant to section 11(d);
5. Whether in the event that the Commission shall not approve the plan as filed or as modified the Commission shall itself propose and approve a plan for purposes of section 11 (d) or shall approve for purposes of section 11 (d) any plan that may be proposed by any persons having a bona fide interest in the reorganization of Central and American;
6. Whether the fees and expenses to be paid in connection with the consummation of the proposed plan and all transactions incident thereto are for necessary services and are reasonable in amount;
7. Generally, whether the proposed transactions are in all respects in the public interest and in the interest of investors and consumers and consistent with all applicable requirements of the Act and the Rules thereunder, and, if not, what modifications should be required to be made therein and what terms and conditions should be imposed to satisfy the statutory standards.

It is further ordered, That notice of this hearing be given to Middle West, Central, American, and to all other persons; said notice to be given to Middle West, Central and American by registered mail and to all other persons by general release of this Commission which shall be distributed to the press and mailed to the mailing list for releases issued under the Holding Company Act of 1935, and by publication in the FEDERAL REGISTER; and

It is further ordered, That Central and American shall give notice of this hearing to all their stockholders, both common and preferred (in so far as the identity of such security holders is known or available to Middle West, Central and American), by mailing to each of said persons a copy of this Notice of Filing and Order for Hearing at his last-known address at least 20 days prior to the date of this hearing;

It is further ordered, That jurisdiction be and is hereby reserved to separate, whether for hearing, in whole or in part, or for disposition, in whole or in part, any of the issues, questions or matters hereinbefore set forth or which may arise in this proceeding, or to consolidate with these proceedings other filings or matters pertaining to said plan or to take such other action as may appear conducive to an orderly, prompt and economical disposition of the matters involved.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 43-14676; Filed, September 8, 1943; 9:28 a. m.]

[File No. 70-779]

ARKANSAS LOUISIANA GAS CO.

NOTICE REGARDING FILING

At a regular session of the Securities an Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 7th day of September, A. D. 1943.

Notice is hereby given that a declaration or application (or both) has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by Arkansas Louisiana Gas Company, a direct subsidiary of Arkansas Natural Gas Company, a registered holding company, and an indirect subsidiary of Cities Service Company, also a registered holding company.

Notice is further given that any interested person may, not later than September 20, 1943, at 5:30 p. m., e. w. t., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request and the nature of his interest, or may request that he be notified if the Commission should order a hearing thereon. At any time thereafter such declaration or application, as filed or as amended, may become effective or may be granted, as provided in rule U-23 of the Rules and Regulations promulgated pursuant to said Act, or the Commission may exempt such transactions as provided in rules U-20(a) and U-100 thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, 18th and Locust Streets, Philadelphia, Pennsylvania.

All interested persons are referred to said declaration or application, which is on file in the office of said Commission, for a statement of the transactions therein proposed, which are summarized below:

Arkansas Louisiana Gas Company proposes to issue and sell at par and accrued interest from July 1, 1943, to the date of closing, $500,000 principal amount of First Mortgage Bonds, 2½% Series C, due 1945, 1947, to two banks, and $1,500,000 principal amount of First Mortgage Bonds, 3¼% Series D, due 1948, 1953, to six insurance companies.

The Series C and D Bonds are to be created by a Supplemental Indenture to be dated as of July 1, 1943 between the Company and Guaranty Trust Company of New York, Trustee, supplemental to the Company's Indenture of Mortgage and Deed of Trust dated as of September 1, 1939. The Supplemental Indenture will also amend certain provisions of the original indenture to permit creation of the new series, to extend the scope of certain covenants and provisions to the new series, to restate provisions dealing with relative rights of each series so as to include the new series, to alter the method of computing the ratio of current assets to current liabilities for the purposes of the covenant restricting payment of dividends and principal or interest on the Company's Debenture by providing that there be first deducted from current assets and liabilities an amount equal to the amount included in current liabilities as provision for current federal taxes on income or profits, to clarify certain provisions and make other minor modifications.

It is intended that the proceeds of the sale of the Bonds will be used to reimburse the treasury of the Company for amounts heretofore expended in the acquisition of property additions as that term is defined in the original indenture.

The company also proposes to alter or modify its outstanding First Mortgage Bonds (all owned by the proposed purchasers), namely, $1,500,000 principal amount of 2¾% Series A, due 1943–1944, and $9,700,000 principal amount of 3½% Series B, due 1945–1954, by stamping or printing thereon by or under the supervision of the Trustee a legend substantially as follows: "The Indenture of Mortgage and Deed of Trust dated as of September 1, 1939 referred to in this Bond has been further amended by a Supplemental Indenture dated as of July 1, 1943, executed and delivered with the consent of the holders of all Bonds at the time outstanding under said Indenture of Mortgage and Deed of Trust. Reference is hereby made to said Supplemental Indenture."

The Company further proposes to alter or modify its outstanding $6,500,000 4¼% Debenture due 1955 owned by Arkansas Natural Gas Corporation (parent company) by stamping or printing thereon a legend substantially as follows: "The paragraphs on pages 2–5 of this Debenture, exclusive of the last paragraph on page 5, are deemed to be modified or amended to conform with the corresponding paragraphs and provisions of section 83 of the Company's Indenture of Mortgage and Deed of Trust dated as of September 1, 1939, as amended by Supplemental Indentures dated as of September 2, 1939, and July 1, 1943, respectively."

Applicant considers sections 6 (a) (1), 6 (a) (2) and 7 of the Act and Rules U-24 and U-50 (a) (2) is applicable to the proposed transaction.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 43-14679; Filed September 8, 1943; 9:29 a. m.]

WAR FOOD ADMINISTRATION.

[P. & S. Docket No. 1579]

TORRINGTON LIVESTOCK COMMISSION COMPANY

ORDER OF INQUIRY, ORDER OF SUSPENSION, AND NOTICE OF HEARING

This proceeding is instituted pursuant to the provisions of Title III of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 1940 ed. 181 *et. seq.*), hereinafter

referred to as the act, and the following allegations are made:

1. The respondent is a corporation engaged in the business of conducting or operating a stockyard at Torrington, in the State of Wyoming, which stockyard has been ascertained by the Secretary of Agriculture to be a "stockyard" within the definition thereof as used in the act, and which has been posted as such by the Secretary of Agriculture under the act.

2. The respondent is registered as a market agency under the act and is engaged in the business of buying and selling livestock on commission.

3. Pursuant to the provisions of the act, the respondent has heretofore filed and put into effect schedules of rates and charges for its services and facilities.

4. About July 5, 1943, the respondent made, filed, and published, effective August 10, 1943, a new schedule of rates and charges, designated as Supplement No. 4 to Tariff No. 1, which rates and charges are materially greater than those set forth in its tariff now in effect and on file. The respondent, about July 29, 1943, postponed the effective date of Supplement No. 4 to Tariff No. 1 for thirty days after August 10, 1943.

5. About July 13, 1943, the respondent gave notice of the proposed increase in rates to the Office of Price Administration, as required by the amendment to the Emergency Price Control Act of 1942 (Pub. L. No. 729, 77th Cong., 2nd Sess.), effective October 2, 1942, Executive Order No. 9250 (7 F.R. 7871) and Directive No. 1 of the Director of Economic Stabilization (7 F.R. 8758). The Office of Price Administration gave notice to the War Food Administration about July 15, 1943, that the respondent had been requested to comply with Office of Price Administration Procedural Regulation No. 11, as amended, and asked that final determination in this matter be withheld.

6. Upon examination of the record and other information in possession of the War Food Administration and upon the statement of the Office of Price Administration, there is reason to believe that the increases in the rates and charges proposed by the respondent are not justified and that such proposed increased rates are, in fact, unreasonable and unlawful.

7. It is concluded that a proceeding under Title III of the act should be instituted for the purpose of determining the reasonableness and lawfulness of the rates and charges proposed in Supplement No. 4 to Tariff No. 1 filed by the respondent and of all other rates and charges of the respondent, and of any rule, regulation, or practice affecting such rates and charges, and whether any stockyard service is rendered by the respondent without making a lawful charge therefor; and that, pending a hearing and decision in such proceeding, the operation of Supplement No. 4 to Tariff No. 1, filed by the respondent, should be suspended and its use deferred.

It is, therefore, ordered, That the operation and use of Supplement No. 4 to Tariff No. 1, filed by the respondent about July 5, 1943, effective September 9, 1943, shall be, and it hereby is, suspended and deferred until the expiration of thirty days from and after such time as the tariff would otherwise go into effect.

It is further ordered, That notice to the respondent shall be and is hereby given that a hearing covering the allegations made herein will be held before an examiner at a time and place of which the respondent will have at least ten days' notice. At such hearing, the respondent and all other interested persons will have a right to appear and present such evidence with respect to the matters and things alleged as may be relevant and material.

It is further ordered, That any and all interested persons who may wish to appear and present evidence relative to the issues in this proceeding shall notify the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, Washington, D. C., within twenty days from the date of the publication of this order.

It is further ordered, That a copy hereof shall be served upon the respondent by registered mail.

It is further ordered, That this order shall be published in the FEDERAL REGISTER.

Done at Washington, D. C., this 8th day of September 1943.

THOMAS J. FLAVIN,
Assistant to the
War Food Administrator.

[F. R. Doc. 43-14701; Filed, September 9, 1943; 11:27 a. m.]